

# Resources Policy Development and Scrutiny Panel

**Date: Wednesday, 13th September, 2017**

**Time: 4.30 pm**

**Venue: Council Chamber - Guildhall, Bath**

Councillors: Sarah Bevan (Chair), Colin Barrett (Vice-Chair), Christopher Pearce, Lisa O'Brien, Jasper Becker, Chris Dando and Andrew Furse

Chief Executive and other appropriate officers

Press and Public



## NOTES:

### 1. Inspection of Papers:

Papers are available for inspection as follows:

Council's website: <https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1>

Paper copies are available for inspection at the **Public Access points**:- Reception: Civic Centre - Keynsham, Guildhall - Bath, The Hollies - Midsomer Norton. Bath Central and Midsomer Norton public libraries.

### 2. Details of decisions taken at this meeting

can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime, details can be obtained by contacting as above.

### 3. Recording at Meetings:-

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control.

Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators.

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The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. They may also ask a question to which a written answer will be given. **Advance notice is required not less than two full working days before the meeting. This means that for meetings held on Thursdays notice must be received in Democratic Services by 5.00pm the previous Monday.** Further details of the scheme:

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12942>

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**Resources Policy Development and Scrutiny Panel - Wednesday, 13th September, 2017**

**at 4.30 pm in the Council Chamber - Guildhall, Bath**

**A G E N D A**

**1. WELCOME AND INTRODUCTIONS**

**2. EMERGENCY EVACUATION PROCEDURE**

The Chair will draw attention to the emergency evacuation procedure as set out under Note 6.

**3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

**4. DECLARATIONS OF INTEREST**

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is a **disclosable pecuniary interest or an other interest**,  
(as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

**5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN**

**6. ITEMS FROM THE PUBLIC OR COUNCILLORS - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS RELATING TO THE BUSINESS OF THIS MEETING**

At the time of publication no notifications had been received.

**7. MINUTES (Pages 5 - 10)**

8. COMMUNITY INFRASTRUCTURE LEVY (Pages 11 - 16)

A report is attached on 'Community Infrastructure Levy'. There will be a presentation on this item at the meeting.

9. COUNCIL COMPANY GOVERNANCE ARRANGEMENTS AND ANNUAL REPORT (Pages 17 - 114)

The report attached sets out the planned approach to governance of Council owned companies. This report is also being considered at a meeting of Council on 14<sup>th</sup> September 2017.

10. CABINET MEMBER UPDATE

The Cabinet Member will update the Panel on any relevant issues. Panel members may ask questions on the update provided.

11. PANEL WORKPLAN (Pages 115 - 118)

This report presents the latest workplan for the Panel. Any suggestions for further items or amendments to the current programme will be logged and scheduled in consultation with the Panel's Chair and supporting officers.

The Committee Administrator for this meeting is Michaela Gay who can be contacted on 01225 394411.

**BATH AND NORTH EAST SOMERSET**

**RESOURCES POLICY DEVELOPMENT AND SCRUTINY PANEL**

Monday, 31st July, 2017

**Present:**- Councillors Sarah Bevan (Chair), Colin Barrett (Vice-Chair), Christopher Pearce, Lisa O'Brien, Chris Dando, Liz Richardson (in place of Jasper Becker) and Will Sandry (in place of Andrew Furse)

**12 WELCOME AND INTRODUCTIONS**

The Chairman welcomed everyone to the meeting and introduced the new Vice Chair, Councillor Colin Barrett and new panel member, Councillor Lisa O'Brien.

**13 EMERGENCY EVACUATION PROCEDURE**

The Chairman drew attention to the emergency evacuation procedure.

**14 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Councillor Jasper Becker sent his apologies and was substituted by Councillor Liz Richardson.

Councillor Andy Furse sent his apologies and was substituted by Councillor Will Sandry.

**15 DECLARATIONS OF INTEREST**

Councillor Liz Richardson declared that she was a Cabinet Member at the time the report at item 9 was prepared.

**16 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN**

There was none.

**17 ITEMS FROM THE PUBLIC OR COUNCILLORS - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS RELATING TO THE BUSINESS OF THIS MEETING**

Andy Halliday made a statement to the Panel regarding the closure of the events room at Bath Central Library.

Andrew Pate, Strategic Director for Resources explained that this is a logistical issue rather than a political one and the estimated loss to income is approximately £900. Councillor O'Brien stated that she had contacted the Cabinet Member for Policy and Transformation Councillor Karen Warrington and put Mr Halliday's points to her. She

will be briefed this week and will report back to Mr Halliday. The Chair thanked Councillor O'Brien.

## 18 MINUTES

The Panel confirmed the minutes of the previous meeting as a true record and they were duly signed by the Chairman.

## 19 DIGITAL STRATEGY - ANNUAL UPDATE

Angela Parratt, Head of IT and Digital, gave a presentation to the Panel on 'Digital' which covered the following:

- 'Digital' – definition
- Digital – designing for the customer – you, me!
- Opportunity
- 20/20 vision
- Benefits – Citizen and Council
- Initial Programme
- Fix my street – example
- People and leadership are the key
- Process and technology – redesign can drive efficiency
- Digital is part of the Strategic Review

Panel members made the following points and asked the following questions:

Councillor Sandry asked if the officer had looked at any other authority's examples of digital strategy. The officer confirmed that she had noted that Bristol and Wiltshire had simplified their digital approach but that Aylesbury was the example that this authority most wanted to move towards.

Councillors Pearce and Barrett asked what measures are in place for people who do not have digital access. The officer explained that no services are being taken away, there is just a shift towards digital. She explained that people can still contact the Council through non-digital channels such as by phone or through the One Stop Shop.

Responding to a query from Councillor O'Brien, the officer agreed that there is a lot of familiarity with digital channels and Apps etc but there is also a need for education. She explained that Help the Aged help to get people familiar with devices.

In response to questions from Councillor Sandry, the officer explained the following:

- Regarding 'Fix my Street', the Council has bought the back end. It has been concluded that a CRM is not needed. She explained that small, scalable solutions are needed in order to respond to continual change.
- Regarding Drones – this has been considered but would need investment so would have to have a solid use case. At present a drone has to be in sight of the operator but rules might change. She explained that other Councils use drones to inspect bridges.

- Regarding Drop box – she reported that there is a development team in the department who have developed a solution to this so no need to buy Drop box.

In response to questions from Councillor Richardson, the officer explained the following:

- Regarding Council Connect and follow up – the officer explained that there is no follow up because different bits of technology are used, this will be changed.
- Regarding FMS – Councillor Richardson explained that she had stopped using this as messages were not getting through. The officer stated that emails will have been received.
- The officer agreed that local statistics on digital use are more useful than national statistics and agreed to send some customer insight information to Panel members.

Councillor Barrett asked about conversations with neighbouring authorities and the possibility of cross authority working regarding digital. The officer explained that there are conversations but each authority is in a different stage. There is a shared code with Wiltshire, talks planned with the IT provider for North Somerset and talks with Oxford regarding their use of FMS. The Strategic Director added that while a partnership may have risks, neighbouring authorities can learn from each other at the right time.

There was some discussion around budget for the new system, it was explained that £5million was provisionally approved in the budget.

In response to questions from Councillor Dando, the officer explained the following:

- Regarding costs, we will be using more and more technology but it will not always cost more.
- The officer will report back regarding the digital broadband national programme. Regarding people who have English as a second language, part of the design of digital is to make access easier.
- Regarding security, she agreed with Councillor Dando that the pressure regarding security will not go away but no organisation is delivering this yet.

## **20 'REVENUE AND CAPITAL OUTTURN 2016/17'**

The Cabinet member for Finance and Efficiency, Councillor Charles Gerrish introduced the report. He introduced finance officers Donna Parham (Chief Finance Officer) and Gary Adams (Head of Corporate Finance).

Panel members made the following points and asked the following questions:

Councillor Gerrish responded to a query about highway repairs from Councillor Barrett, he explained that there is no change in the road inspection programme and money has been received from the government in this financial year.

Councillor Sandry asked if the Cabinet is losing its grip on the budget, Councillor Gerrish explained some unexpected costs in that four care homes closed and in excess of 100 people had to be re homed. This cost more than was budgeted in this area.

Councillor Sandy asked about the overspend in catering services, Councillor Gerrish explained that the Meals on Wheels service is currently being re-drawn and there has been a proposed increase in the charges for school meals but as academies opt out, there is a decrease in economies of scale.

Councillor Sandry asked about Alice Park skate park, Councillor Gerrish explained that there may be a decision on this in the next couple of months. Regarding the Gypsy and Traveller sites, Councillor Gerrish explained that there may be a capacity issue with the planning department.

Councillor O'Brien asked why the overspend on care home closures and children's services was not foreseen. Councillor Gerrish explained that he has monthly meetings with his officers. He stated that the 151 team did get short notice on this and there has been an internal investigation and he felt the answer was understandable. The Strategic Director explained that this area of the budget is under intense pressure and is a complicated budget to run, a close eye is being kept on this and there will be a further report in October.

Councillor Dando asked if the budget is adequate going forwards considering a chunk of the reserves have been used and if there is a loss regarding business rates. The Cabinet member explained that the reserve is for unexpected pressures. The Cabinet member also explained that some supermarkets had appealed regarding business rates and won so business rates are reduced, this was unexpected but a one off.

Regarding Hospital Trusts, the Cabinet Member explained that the LGA has taken up the issue of whether they should be treated as charities.

There was some discussion about student housing. Councillor Sandry stated that every planning application for an HMO is an act of self-harm by the Council.

## **21 CABINET MEMBER UPDATE**

The Cabinet Member for Finance and Efficiency, Councillor Charles Gerrish updated the Panel on the following:

- Digital by choice should always remain a choice;
- A property acquisition will generate money each year to help with revenue difficulties;
- Bath Quays South – additional income from lettings will be generated;
- Other finance issues have been covered in the previous report.

## **22 PANEL WORKPLAN**

The Panel noted the workplan with the following amendment:

September 2017 – ‘Community Infrastructure Levy’ added and ‘Traded Services’ to move to the next available meeting.

The meeting ended at 6.45 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

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<b>Bath &amp; North East Somerset Council</b>	
MEETING/	<b>Resources Policy Development &amp; Scrutiny Panel</b>
MEETING	<b>13<sup>th</sup> September 2017</b>
TITLE:	<b>Process for making decisions on spend of CIL income in B&amp;NES</b>
WARD:	All
<b>AN OPEN PUBLIC ITEM</b>	
<b>List of attachments to this report:</b> None	

## 1 THE ISSUE

- 1.1 B&NES approved its Community Infrastructure Levy (CIL) in 2015 and the Council agreed a Spend Protocol in July 2015 in order to ensure transparency and to meet legislative requirements. This protocol was trialled for the spend 2016/17 and as a result of this trial, a number of amendments are required.

## 2 RECOMMENDATION

- 2.1 The Panel is asked to give their views on the process for determining the priorities for the spend of CIL income, the key principles of the Spend Protocol in section 5 below and a fuller presentation on this will be given at the Panel meeting.

## 3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 Based on the Core Strategy/Placemaking Plan growth trajectory, the forecast CIL income from housing development is set out in the table below. These are estimates and will need to be reviewed annually.

<b>Table 1: Forecast CIL income to 2022/23</b>							
	<b>16/17</b>	<b>17/18</b>	<b>18/19</b>	<b>19/20</b>	<b>20/21</b>	<b>21/22</b>	<b>22/23</b>
Bath	1,086,477	2,455,613	2,270,028	1,689,357	672,848	188,843	524,528
Keynsham	78,988	182,967	340,678	461,160	422,100	0	0
Somer valley	25,509	100,412	319,358	334,163	121,275	246,225	0
Rural Areas	354,878	804,150	231,472	103,803	168,840	0	0
SE Bristol	0	236,651	352,385	128,088	0	0	0
<b>Total CIL</b>	<b>1,545,852</b>	<b>3,779,793</b>	<b>3,513,921</b>	<b>2,716,571</b>	<b>1,385,063</b>	<b>435,068</b>	<b>524,528</b>

## **4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

- 4.1 CIL must be spent on the provision, improvement, replacement, operation or maintenance of infrastructure needed to support the development of the area. It is intended to focus on the provision of new infrastructure and should not be used to remedy pre-existing deficiencies unless they will be made more severe by new development.
- 4.2 The definition allows the levy to be used to fund a very broad range of facilities such as play areas, parks and green spaces, cultural and sports facilities, academies and free schools, district heating schemes and police stations and other community safety facilities. the levy may not be used to fund affordable housing.
- 4.3 CIL receipts can only be spent on capital projects, although capital spending to improve or extend the life of existing assets is also permissible. For example, it can be used to increase the capacity of existing infrastructure or to repair failing infrastructure if necessary to support development.
- 4.4 CIL can only be spent on infrastructure on the Council's Regulation 123 List in order to avoid charging developers for both CIL and S.106 contributions for the same infrastructure items.

## **5 THE REPORT**

- 5.1 The Community Infrastructure Levy (CIL) came into effect in B&NES on 6 April 2015 following adoption of the CIL Charging Schedule by Council on 17 February 2015.
- 5.2 CIL largely replaces s.106 contributions as developer-provided funding for infrastructure projects. Only Affordable Housing and site-specific requirements are now covered by s.106 obligations. Education, highways and other strategic schemes are to be funded by CIL unless they entail on-site provision.
- 5.3 All of the CIL collected will be used to support infrastructure for the communities within the District and to support the growth plans in the Core Strategy /Placemaking Plan. The apportionment of the CIL income is as follows;

- 5.4 **Local Funds:** A proportion of CIL generated in an area must be passed directly to local communities. This is 15% (with a cap of up to £100 per Council tax dwelling per annum) or 25% in parishes with adopted Neighbourhood Plans.
- 5.5 **Strategic Funds:** The majority of the CIL receipts will be allocated by B&NES as guided by CIL Strategic Spend Protocol.
- 5.6 **Administration Costs:** Up to 5% of CIL receipts will be used within Planning Services for the costs associated with monitoring, managing and collection of CIL required by the CIL regulations.

<b>Table 2: CIL Income by component £</b>							
	<b>16/17</b>	<b>17/18</b>	<b>18/19</b>	<b>19/20</b>	<b>20/21</b>	<b>21/22</b>	<b>22/23</b>
<b>TOTAL</b>	1,546,000	3,780,000	3,514,000	2,717,000	1,385,000	435,000	525,000
Strategic	1,236,800	3,024,000	2,811,200	2,173,600	1,108,000	348,000	420,000
Local	231,900	567,000	527,100	407,550	207,750	65,250	78,750
Administration	77,300	189,000	175,700	135,850	69,250	21,750	26,250
Bath unparished - assumed CIL proportion	162,972	368,342	340,504	253,404	100,927	28,326	78,679
Parished Area (assumes 15% for all parishes.)	68,928	198,658	186,596	154,146	106,823	36,924	71

### The Strategic CIL component

- 5.7 The key principles in the B&NES CIL Spend Protocol are that;
- (1) decisions will be made **annually** but based on a longer term programme of spend where appropriate
  - (2) CIL income will be spent on items identified in the **Infrastructure Delivery Plan (IDP)** which are critical to supporting growth in the Local Development Framework
  - (3) spend must be aligned with the Council's annual **capital programme**
  - (4) the CIL spend will be **agreed by Cabinet** and feed into the Council's budget setting process.
- 5.8 The IDP will be used to formulate a programme of spend aligned with other funding sources to assist with planning infrastructure provision to enable a co-ordinated approach. The IDP will therefore need to be updated at least annually with the input of internal and external infrastructure providers in order to ensure decisions are based on up-to-date information.
- 5.9 The timetable and process for determining the spend of CIL income will be set out in the presentation to the Panel. Opportunities for the involvement of ward Members will be set out in the presentation at the Panel meeting.

- 5.10 Unlike s.106 contributions, CIL is in effect a tax on development and is not directly linked to a development and does not need to be spent where it is generated (other than the local component – see below).

### **The Local CIL component**

5.11 The Regulations state that the local proportion of funds must be used ‘to support the development of the local area by funding;

- (a) the provision, improvement, replacement, operation or maintenance of infrastructure; or
- (b) anything else that is concerned with addressing the demands that development places on an area.’

5.12 This is a wider definition of how the local funds may be used than the one that applies to B&NES Council’s use of CIL funds (which are restricted to funding infrastructure to support the development of the area).

5.13 B&NES will be open to pooling CIL with Parish/Town Councils to fund projects where there are shared priorities.

5.14 Local Funds will be passed from B&NES to the Parish/town Councils twice a year on 28<sup>th</sup> April and 28<sup>th</sup> October. Parish/Town Councils are required to provide an audit/report to B&NES Council on amount of CIL received, spent and details of projects CIL funds have been spent on by 30<sup>th</sup> April. For further guidance, the Council has produced an Advisory Note for Town and Parish Councils. Ward Members will be kept up-to-date by the Planning Service on the amount of CIL generated and the decisions on spend

5.15 In Bath, which is unparished, CIL spend decisions will be made by Cabinet with the advice of the Bath City Forum.

### **Monitoring**

5.16 Details of CIL charges, receipts and spending will be monitored and audited by B&NES. The Council will include in its Annual Monitoring Report the amount of CIL that has been received, spent (and on what) and remains in the fund in the reporting year, ‘April to March’.

## **6 RATIONALE**

6.1 B&NES approved its Community Infrastructure Levy (CIL) in 2015 and the Council agreed a Spend Protocol in July 2014 in order to ensure transparency and to meet legislative requirements.

## **7 OTHER OPTIONS CONSIDERED**

7.1 None

## **8 CONSULTATION**

8.1 This report has been prepared in consultation with legal and finance officers

## **9 RISK MANAGEMENT**

- 9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

<b>Contact person</b>	<i>Simon de Beer 01225 477616</i>
<b>Background papers</b>	<i>CIL Charging Schedule</i> <i>B&amp;NES Regulation 123 List</i> <i>B&amp;NES Infrastructure Delivery Plan</i> <i>B&amp;NES Local Plan 2014 &amp; 2017</i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	

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<b>Bath &amp; North East Somerset Council</b>	
MEETING:	<b>Resources PDS Panel</b>
MEETING DATE:	<b>13<sup>th</sup> September 2017</b>
TITLE:	<b>Council Company Governance Arrangements and Annual Reports</b>
WARD:	All
<b>AN OPEN PUBLIC ITEM</b>	

## 1 THE ISSUE

- 1.1 A report is being prepared for Council setting out the planned approach to governance of Council owned companies. These are increasingly being used but only where they can add value and relate to commercial activity.
- 1.2 The Panel will have the opportunity to comment just before consideration by Council, which is the following day. The report for Council will be sent separately.
- 1.3 The accounts for Bath Tourism Plus and Aequus Developments (ADL) will be enclosed with the report. These are for noting.
- 1.4 This panel has a particular interest in ADL which was approved as a commercial venture by Cabinet in December 2015. Derek Quilter will provide an update on its activity and some of its targets.

## 2 RECOMMENDATION

- 2.1 That the Resources Panel:
  - (1) Consider the report for Council (which will be sent separately) and provide comments for Council as appropriate.
  - (2) Receive and comment on an update about ADL and its success in delivering objectives set in December 2015 by Cabinet

<b>Contact person</b>	Andrew Pate & Maria Lucas
<b>Sponsoring Cabinet</b>	<i>Councillor Charles Gerrish</i>

<b>Member</b>	
<b>Background papers</b>	<i>Cabinet Report – December 2015</i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	

# Bath & North East Somerset Council

MEETING:	<b>Council</b>
MEETING DATE:	<b>14 September 2017</b>
TITLE:	<b>COUNCIL COMPANY GOVERNANCE ARRANGEMENTS AND ANNUAL REPORTS</b>
WARD:	All
<b>AN OPEN PUBLIC ITEM</b>	
<b>List of attachments to this report:</b>	
<b>Appendix A - EY Corporate Structure Review</b>	
<b>Appendix B - Proposed Protocol for governance arrangements of companies</b>	
<b>Appendix C – ADL annual report and accounts</b>	
<b>Appendix D – BTP annual report and accounts</b>	

## 1 THE ISSUE

- 1.1 To agree the appropriate corporate governance arrangements for Council interests in Local Authority Companies and approve the annual accounts of Aequus Development Limited (ADL) and Bath Tourism Plus (BTP).
- 1.2 To consider the request by Bath Tourism Plus for working capital finance in the form of a loan at commercial rates to enable the company to relocate and refurbish a new site for the Visitor Information Centre and a new back office. This will lead to the reduction of operational overheads.

## 2 RECOMMENDATION

The Council is recommended to:

- 2.1 note the recommendations of the EY corporate structure review report (Appendix A)

- 2.2 agree the principles and structures for governance arrangements of Council companies as set out in the proposed Protocol (Appendix B)
- 2.3 delegate the implementation of the group structure and required streamlining to the Chief Executive, in consultation with the Leader and Portfolio Holder for Finance; section 151 Officer and Monitoring Officer.
- 2.4 note the ADL 2016/17 year end draft audited accounts (Appendix C)
- 2.5 note the BTP 2016/17 year end draft audited accounts (Appendix D)
- 2.6 approve the addition of a new scheme of £300k loan into the Capital Programme entitled BTP transitional funding.
- 2.7 delegate authority to authorise the loan to BTP to the Strategic Director of Resources (s151 Officer), in consultation with the Cabinet Member for Finance and Efficiency, once satisfied that due diligence has been completed and subject to the relevant terms and conditions.
- 2.8 note that as a loan condition, a detailed review of the BTP business plan is required with the future years plan from 2018/19 to be presented to the Council Shareholder for approval

### **3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 3.1 Creating and administering corporate structures will have associated costs, e.g. the need to file statutory accounts and returns with Companies House. There are methods of minimising and streamlining the Council's structures and reporting requirements which can minimise these. Specialist tax and finance advice has been obtained to ensure this and the proposed structure reflects this advice.

#### **FINANCE IMPLICATIONS – COMPANY ACCOUNTS**

- 3.2 The BTP 2016/17 accounts show that there was a small reduction in turnover (2.5%) along with an increase in operating costs and as a result an operating deficit of £165,874 was reported. BTP's long term financial stability is being addressed through their business plan. This contains a number of measures to increase income and reduce costs. Additional income is planned to be derived from new commercial ventures which are soon to be launched and efficiencies will be generated by moving the Visitor Information Centre from its current location and continuing to merge back office functions with Bath Festivals.
- 3.3 The ADL 2016/17 accounts cover the first trading period for the company. As anticipated a small operating loss of £126K has been made whilst the company takes on new rental properties and meets associated company set up costs. This is fully in line with the anticipated early trading projections for the company. During this period ADL has provided of £1.3M of capital receipts to the Council and also exceeded it's first year revenue target of £75k.

## **FINANCE IMPLICATIONS – REQUEST FOR LOAN BY BTP**

- 3.4 In order to create long term financial stability and manage some short term one-off costs, the Company are requesting loan funding from the Council at an appropriate market rate of interest (in order to comply with State Aid rules). These costs relate to the payment of redundancy costs from historic pension's liabilities, the capital costs of relocating the Visitor Information Centre and back offices to cheaper and better located premises to be shared with Bath Festivals and the costs of supporting the up-front costs in delivering a successful festivals programme for Bath in 2017. Any associated costs will be charged to BTP.
- 3.5 The office move will reduce BTP's operating costs by c£100k per annum from 2018/19 onwards and provide greater income generation opportunities to the Company from the new location of the Visitor Information Centre.
- 3.6 Following an initial review of the BTP business plan by Ernst Young, financial projections and potential loan repayment profile, there is a good indication that this should be low risk with repayments being made as planned, with the Company back in surplus by the end of 2018/19. Further due diligence will be carried out following delegation to enter into the loan agreement.
- 3.7 To provide further rigour to the company's finances a new Non-Exec Director with relevant financial experience, has been appointed to the Board of BTP. In addition the Board and Senior Management Team have put in place a series of reviews to ensure the delivery of a robust business plan. These include the development of new commercial activities that generate income for the Company, a review of the costs of delivering their activities to ensure they are efficient and continuing to explore with Bath Festivals and others the opportunities from joint working and shared back office services.

## **4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

- 4.1 The Council, like many other Councils, is actively looking at all appropriate opportunities for generating additional revenue streams given the year on year reductions in central government grant. As part of this income generation drive, the Council is looking at opportunities to commercialise services through trading, e.g. the creation of ADL, a property investment company.
- 4.2 Trading by Councils, for commercial gain, must be undertaken through the creation of a company. This report seeks to regularise the process for creation of companies and their governance arrangements to ensure a consistent approach. This will be achieved by adopting the principles set out in the EY report, which are embodied in the proposed Protocol at Appendix B. The Council will only create companies where they achieve these principles and add value. The Council will consider the best model for each subsidiary company on an individual basis.
- 4.3 ADL and BTP are governed in accordance with the powers set out under S1 of the Localism Act 2011 (the General Power of Competence), and in

accordance with any Company governance arrangements the Council implements in due course.

## 5 THE REPORT

### COMPANY GOVERNANCE

- 5.1 The Council has already established a property investment company – ADL – to develop and/or hold rental properties and its wholly owned subsidiary - Aequus Construction Limited (ACL) – to construct properties for market sale and rental. Both ADL and ACL are companies limited by shares which are wholly owned by the Council. The Council also has other corporate entities. It acquired sole ownership of BTP which is a company limited by guarantee, with the Council as sole member of the company. The Council provides audit services to other public bodies under the Local Government (Goods & Services) Act 1970 as a separate trading account within the General Fund. The Council is considering as part of the commercialisation agenda whether this Internal Audit service should be carried out in a separate commercial entity. The commercialisation agenda will inevitably see the Council consider the potential for other services to be provided on a commercial basis and given legislative constraints, it is likely that such commercial opportunities will need to be carried out through separate corporate vehicles (companies or community benefit societies).
- 5.2 Given the potential for a range of different corporate entities to be established by the Council within the near future, the Council needs to consider governance arrangements to ensure the Council's various roles are properly documented and understood. This will minimise conflicts of interest and maximise the opportunities for the corporate vehicles to achieve the outcomes set for them. The risks of unplanned ad-hoc governance arrangements for different companies are highlighted in the EY report (Appendix A) as are the best practice principles.
- 5.3 The Protocol and proposed structure (Appendix B) establishes a Holding Company between the Council and the corporate entities. The extent the Holding Company could exercise the shareholder/member rights in respect of each of the corporate entities would be set out in the Shareholders' Agreement between the Council and the Holding Company regularising the relationship between the Council and the Holding Company.
- 5.4 The Council is a representative body and its Members are accountable to the electorate for the Council's performance. Part of the Council's rationale for establishing the commercial entities is in part to create these businesses as tools to increase income for the Council. Members, who must also decide on potentially competing priorities for resources, are best positioned to lead on holding the financial and general performances of the businesses to account. Part of this role, if the businesses do not perform well, may be a decision to limit future Council support, sell them or even wind them up. It is proposed that these types of difficult strategic decisions rest with the Members.
- 5.5 The EY report recommends that in order for members to be able to exercise their strategic decision making function, the duality of roles between

shareholder representative and Company Director should be avoided to ensure a robust corporate governance structure. It is proposed that the Leader as Shareholder, with advice from the Cabinet as Shareholder Group and s.151 and Monitoring Officers, exercise the Council's shareholder rights (as sole shareholder of the Holding Company and thus sole owner of each of the commercial entities). It is recommended in the EY report that the terms of reference for the Shareholder Group should clearly define the roles and responsibilities of Council Members in acting as Shareholder Representatives. The Protocol at Appendix B addresses these issues via reserved matters and a Shareholders Agreement.

- 5.6 By utilising existing Council decision making and governance arrangements, it is possible to ensure appropriate corporate governance arrangements without creating additional administrative cost. The governance structure provides for the Cabinet (in its Shareholder group role) to provide the strategic oversight role it presently holds for council business while providing the Council directors (in their Holding Company director roles) with the delegated power to run the day to day transactional business of the holding Company and its subsidiaries. This is similar to the delegations to directors to run their directorates within the Council's scheme of delegation. The proposals are explained further in the Protocol at Appendix B.
- 5.7 It should be noted that there will be a period of transition to bring about these new arrangements. Recommendation 2.3 refers to this and delegates responsibility to the Chief Executive in consultation with the Leader, Portfolio Holder for Finance, plus the Section 151 Officer and Monitoring Officer.

## BTP LOAN REQUEST

- 5.8 Bath Tourism Plus (BTP) was established by the Council and Bath Chamber of Commerce in 2003 to deliver the Council's tourism and conferencing services. It is classed as a separate Local Authority influenced company and was established as a non-charitable company limited by guarantee. Since its incorporation, BTP's scope of operation has grown significantly to include many successful commercial trading activities (such as the Christmas Market), alongside the contract for core services from the Council.
- 5.9 On 1 April 2017 following independent legal and financial advice, the Council acquired 100% ownership of the Company to ensure the ongoing viability of BTP and the successful delivery of destination management services. BTP remained a company limited by guarantee with the articles being altered to enable the company to distribute surplus to its members. The request for a loan for working capital financing is to the Council as 100% shareholder and outside of the contract terms and conditions.

## 6. RATIONALE

- 6.1 The proposed structure will ensure the Council complies with the best practice for the governance of local authority companies.

- 6.2 The request for the working capital loan to enable BTP Ltd to relocate will put BTP in a more financially secure position.

## **7. OTHER OPTIONS CONSIDERED**

- 7.1 Other models were considered for the Council companies. The proposed model best fits the current recommended advice.
- 7.2 Officers have considered other options for assisting BTP however these raised state aid issues and so have not been pursued.

## **8. CONSULTATION**

- 8.1 All proposals have been drawn up with support from Officers in relevant departments and external experts. The Monitoring and s151 Officers have been involved throughout and have had opportunity to review and input into this report.
- 8.2 Consultation has taken place with the Board of BTP and Bath Chamber of Commerce. Consultation has taken place with the Board of ADL
- 8.3 Consultation has been undertaken with relevant Cabinet Portfolio Holders and Group Members. All future proposals will be subject to the normal processes and consultation.

## **9. RISK MANAGEMENT**

- 9.1 A risk assessment related to the issue and recommendations has been undertaken and a full risk register has been maintained in accordance with the Council's decision making management guidance.

<b>Contact person</b>	Maria Lucas tel: 01225 395171/ Ben Woods
<b>Background papers</b>	None
<b>Please contact the report author if you need to access this report in an alternative format</b>	

# **Bath & North East Somerset Council**

Corporate Structure Review

Final Report

31<sup>st</sup> August 2017

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# 1. Background, scope and review conclusions

## 1.1 Background

Austerity measures have driven local government to focus on income generation through identifying and generating additional revenue streams. In recent years, there has been a growing focus on commercialising services through trading or pooling resources with other local authorities jointly to provide services.

Bath and North East Somerset Council (“BaNES” or “the Council”) have explored alternative approaches to providing certain services and looked to identify revenue generating opportunities. In doing this the Council has established a number of Local Authority Trading Companies (“LATCos”).

Prior to 2017, the Council wholly owned two LATCos, Aequus Developments Limited and Bath Tourism Plus Limited. These commercial companies provide additional housing to the local market and generate new local tourism business opportunities. We understand that the Council is looking to include further LATCos into its existing group structure, including the proposed establishment of Audit West Limited. Sections 2 and 3 of this report provides further detail on the corporate governance structure of these companies.

## 1.2 Scope

As per the agreed scope with the Council, we have performed a review of the corporate structures of BaNES’ subsidiary companies, including:

1. Review and assessment of the proposed group structure for the Council and it’s trading companies from the outset;
2. Reviewing corporate governance arrangements for the proposed new structure, capturing existing arrangements and identifying potential areas of conflict; and
3. Assessing accounting implications for structure changes and proposed companies, including consideration of consolidation, group accounting and impact on single entity accounts.

## 1.3 Review Conclusions

### 1.3.1 Proposed corporate governance arrangements

BaNES Council Officers have proposed a corporate governance arrangement, which includes a holding company sitting between the Council and its LATCos, to enable effective streamlining of decision making processes and clear delegation of roles and responsibilities to avoid conflicts of interests from arising. A Shareholder Group, consisting of Council Members, will sit within the Council. There will also be a holding company, consisting of Council Officers, who will provide governance and operational support to the LATCos. Through a shareholder agreement between the Shareholder Group and the holding company, the holding company will represent the Council and act as shareholder with certain matters (including strategic and high risk decisions) to be escalated to the Shareholder Group for consideration.

This proposed structure will enable the Council to implement a clear approach to governance across its LATCo group, with there being a single point of access to the Council and broader

representations of board members. The structure will also enable the governance approach to be consistent if the Council decides to grow its group structure and establish further LATCos.

### **1.3.2 Existing corporate governance arrangements of the Council's LATCos**

From our review of the existing corporate governance arrangements of the Council's LATCos, we have identified some existing areas where potential conflicts of interests may arise. We have identified instances where Council Members are acting as both company directors and shareholders. We have also identified examples where Council Officers have a company director role which may conflict with their Council role. Further details of these conflicts are set out in Section 3 of this report.

CIPFA guidance on good governance recommends that duality of roles, such as those identified in Section 3 of this report, should be avoided in order to create a robust governance structure, which ensures transparent and unbiased decision making.

### **1.4 Recommendations**

As noted above, the detailed findings across each of the scope areas are set out in Sections 2, 3 and 4 of this report. From the work we have performed we have identified the following recommendations for the Council:

- a. The Council should ensure that the Terms of Reference of the proposed Shareholder Group clearly define the roles and responsibilities of Council Members in acting as shareholder representatives.
- b. Clear Terms of Reference should be developed for the holding company, including the shareholder and governance activities it will conduct on behalf of the Council and definition of the matters which need to be escalated to Shareholder Group.
- c. The Council should ensure that the board of the holding company has appropriate competencies, experience and skills mix to provide effective governance to all group entities.
- d. Duality of roles between shareholder representative and company director should be avoided to ensure an effective and robust corporate governance structure.
- e. We also recommend that the Council reviews the composition of the holding company and individual trading company boards to ensure that there is sufficient independence and representation in decision-making and avoidance of over-reliance on particular directors.
- f. We recommend the Council adhere to the latest available CIPFA guidance for best practice on structured corporate governance. The guidance will steer the Council's strategic governance arrangements to ensure consistency and accountability is incorporated.

## 2. Review of BaNES proposed group structure

### 2.1 Summary

This section of the report reviews the Council Officers' proposed group and corporate governance structure. We have reviewed the Council's documentation on *Governance of interests in Local Authority Companies* (see Appendix 5.1) to assess whether the proposed arrangements are effective in building a robust corporate governance structure.

While there are clear benefits in councils operating commercial trading companies, the corporate governance structure can present challenges, particularly in the overall decision-making processes and board composition. The governance of an entity established under Companies Act legislation is markedly different from that of local government bodies. Despite being owned outright, or in majority, by local government bodies (the Shareholders) a LATCo established under the Companies Act must adhere principally to that legislation ahead of local authority rules and codes of conduct.

There needs to be careful consideration given to the corporate governance structure to avoid conflict of interests and ensure there is transparency and accountability between the Council as a shareholder and its companies.

The Companies Act 2006 codifies the general duties of Directors which specifically provides guidance on managing conflicts of interest (s171 – 176, specifically s175).

### 2.2 Proposed group structure

The proposed group structure, developed by Council Officers, reflects existing decision-making processes and governance arrangements. We understand that this proposal includes the formation of a Shareholder Group structure within the Council and a holding company, consisting of Council Officers, which sits above the individual LATCos. The Shareholder Group would be comprised of Council Members to provide strategic oversight and direction to the holding company who will oversee the operational aspects of the subsidiary companies.

### 2.3 Governance challenges

The Council's role within its commercial companies can impact on the operations of their business. While having wholly-owned companies, such as Aequus Development Limited, can be advantageous in terms of enabling greater control over the strategic direction of the business, this approach can also raise potential governance challenges:

- Ø **Effective decision-making / conflicts of interest:** where individuals have taken on the dual role of Company director and Shareholder representative, this can impact on decision-making as conflicts of interests may arise, which prevent them from fulfilling their obligations appropriately to both the company and the Council as shareholder.
- Ø **Agility:** whole-ownership of LATCos, whilst enabling local authority control, may restrict the ability of a company to act commercially within its competitive market. A successful LATCo will need to be agile in responding to changing market conditions and will need to make decisions based on commerciality and return.

- Ø **Accountability:** unlike their private sector competition, a LATCo may be required to demonstrate additional accountability to their local authority shareholder over the use of public funds. However, this would need to be appropriately balanced alongside the commercially sensitive nature of any information being shared, which could potentially place a LATCo at a competitive disadvantage.

## 2.4 Formation of the Holding Company

In its proposed group structure the Council is looking to establish a holding company. This is intended to provide a streamlined and consistent approach to governance whereby the holding company will represent the Council as shareholder in each of the LATCos. It is intended that Council Officers sitting on the holding company board will act as the shareholder on behalf of the Council, addressing day-to-day responsibilities through agreed shareholder agreements and escalating strategic decisions up to Council Members who will represent the Council through a Shareholder Group.

It is expected that this proposed structure will enable the Council to fulfil its shareholder responsibilities whilst minimising any potential conflicts of interest, which may arise. A group structure with a holding company will also enable the Council to apply an approach to governance across of all its subsidiaries, which can remain consistent if the Council decides to establish further LATCos.

The successful execution of this proposed group structure and governance approach is dependent on the following three factors:

1. Ability to apply this structure across all subsidiaries, including those where the Council is not the sole shareholder (e.g. Brunel Pension Partnership and Adoption West);
2. Ensuring the holding company board of directors has the appropriate skills and experience to discharge its responsibilities through the proposed shareholder agreements; and
3. Clarification of the role of elected Council Members in the shareholder role.

In relation to the role of Council Members as shareholder representatives, we understand that the Council has considered different approaches. These include a unified board approach, where the Board of the commercial entities includes elected members (as well as officers and potential unconnected non-executives), and an approach where there are no elected members on the board but Members sit on a Shareholder Group, which exercises the Council's rights as shareholder in each of the commercial entities. Having reviewed the advantages and disadvantages of each, the formation of a Shareholder Group within the Council can provide an effective means of governance, as it will avoid conflicts of interest arising whilst enabling:

- Ø **Proper strategic oversight:** there will be a single point of access to the Council, which ensures that elected members are able to make clear strategic decisions in line with the Council's business objectives;
- Ø **Retain control:** the Council (being sole shareholder) can have ultimate control over the business without hindering the operational management of the subsidiary companies;

- Ø **Broader political representations:** as the Council recognises the Shareholder Group will allow for broader political representations than can be housed on a board of directors; and
- Ø **Broader representations:** as the Shareholder group can be comprised of a greater number of representatives, this allows for diversity that can provide greater efficiencies in decision-making processes and avert potential conflict from arising between members on the boards and members exercising the shareholder.

The proposed Shareholder Group will enable the Council to maintain influence over the strategic direction of their commercial entities and provide them with a greater degree of flexibility in relation to the role of elected members within the Holding Company arrangement.

The Council should ensure that all necessary steps are taken to avoid any conflicts of interest arising from any proposed Shareholder Group.

## 2.5 Conclusion

Council Officers have considered a number of options in regards to the corporate governance arrangements of the Council's commercial entities, with the key priority to retain control and ensure that the companies can be used as '*tools to increase income for the Council*'.

The proposed corporate governance structure developed by Council Officers will enable effective streamlining of decision making processes and delegation of roles and responsibilities to avoid conflicts of interests from arising. The proposed formation of a Shareholder Group within the Council consisting of Council Members, and a holding company consisting of Council Officers, will provide a governance approach, which is consistent across all companies, particularly in matters of strategic oversight, provide a single point of access to the Council and enable the Council to further expand the LATCo group without changing the governance structure.

We consider the proposed group structure to be an effective form of corporate governance, as it will provide a consistent platform across the group to achieving robust internal control, identify clear segregation of roles and responsibilities and enable implementation of good practice in transparency of decision-making between the different entities.

## 2.6 Recommendations

From our work, we have identified the following recommendations:

- a. The Council should ensure that the Terms of Reference of the proposed Shareholder Group clearly define the roles and responsibilities of Council Members in acting as shareholder representatives.
- b. Clear Terms of Reference should be developed for the holding company, including the shareholder and governance activities it will conduct on behalf of the Council and definition of the matters which need to be escalated to Shareholder Group.
- c. The Council should ensure board of holding company has appropriate competencies, experience and skills mix to provide effective governance of all group entities.

The Council should refer to the CIPFA guidance on delivering a good governance framework<sup>1</sup>. This framework sets out how local authorities can form appropriate governance structures, giving consideration to the legislative and constitutional arrangements. Below are seven principles of governance that support local authorities in achieving their outcomes:

- i. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law;
- ii. Ensuring openness and comprehensive stakeholder engagement;
- iii. Defining outcomes in sustainable economic, social and environmental benefits;
- iv. Determining the interventions to optimise the achievement of the intended outcomes;
- v. Developing the entity's capacity, including the capability of its leadership and the individuals within it;
- vi. Managing risks and performance through robust internal control and strong public financial management; and
- vii. Delivering effective accountability through transparency in reporting.

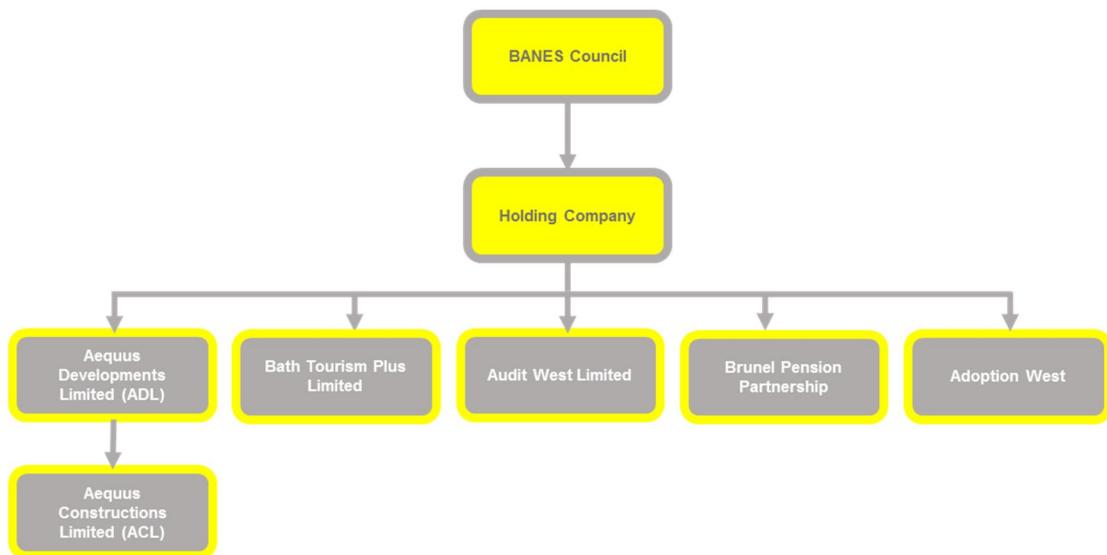
<sup>1</sup> CIPFA: Delivering good governance in Local Government Framework (2016)

## 3. Review of existing governance arrangements

### 3.1 Summary

In this section, we have reviewed the existing arrangements of the Council's LATCos to identify any existing areas of conflict. From review of the documents received, as detailed in Appendix 5.1, we have provided below a summary of each commercial entity and the potential conflicts of interest identified.

### 3.2 BaNES Proposed Group Structure



As per the diagram above, from our discussions we have summarised the Council's existing and proposed subsidiary companies:

- Ø Aequus Developments Limited and Aequus Constructions Limited (*subsidiary of ADL*)
- Ø Bath Tourism Plus Limited
- Ø Audit West Limited (*proposed*)
- Ø Brunel Pension Partnership (*not yet established*)
- Ø Adoption West (*in discussion*)

#### 3.2.1 Aequus Developments Limited and Aequus Construction Limited

In March 2016, the Council set up Aequus Developments Limited ("ADL") to develop, deliver, own and manage the Council's private residential property assets. The Council wholly owns ADL (100%). It was established as part of the Council's strategic review of its financial process, having observed similar housing and development companies being established in other councils.

The overall mission of the ADL is to generate revenue income and maximise revenues for the Council, to acquire and sell private market property, and to hold, manage and operate high quality private lettings. Another objective of ADL is to be fully policy compliant on affordable housing.

As per the ADL's business plan 2016/17-20/21, the objectives of ADL are:

- Ø To generate income and deliver a financial return to the Council;
- Ø Managing private residential property assets and delivering new housing for both private ownership and the private rented sector;
- Ø Maximise the value with commercial return, whilst providing affordable homes for example young professionals;
- Ø Acting as a responsible landlord;
- Ø Delivering new housing developments within BaNES area for local residents;
- Ø To provide sustainability and healthy living; and
- Ø Work with the Council seeking vacant sites and brown field sites for housing development.

The membership of the ADL board is outlined below as per Appendix 5.3:

· Chairman	:	Cllr X
· Managing Director	:	Tim Richens
· Operations Director	:	Derek Quilter
· Executive Director	:	Martin Shields
· Non-Executive Director	:	Cllr Y
· Independent Non-Executive	:	Paul Robathan
· Independent Non-Executive	:	Bob Marshall

***We have identified that the board composition of ADL includes two councillors, Cllr X (Chairman of the Board) and Cllr Y, a non-executive director. Their role within the board presents a conflict of interest, as they are operating dual roles as both shareholder representatives and company directors.*** With duality of roles there is a risk that individuals are not able to discharge their responsibilities of both roles appropriately and we have seen with other LATCos where such duality has resulted in decision making which has a Council bias rather than the required commercial focus.

We understand that the Council is in the process of reviewing the above roles, and board composition of ADL.

The Council has established an additional company, Aequus Construction Limited (“ACL”), to carry out the construction projects for ADL housing projects. ACL will be a 100% wholly owned subsidiary of ADL and will be a company limited by shares, registered at Companies House. In the proposed structure, any developments sites that are held in the Council, are to be transferred for construction to ACL. Once they have been completed, ACL will dispose of the units, transferring to ADL for letting. ACL assets will be held under a 50-year lease, when the lease expires all the assets related to the company will be transferred to the Council.

The directors for both of the Companies are responsible for the day-to-day management of the company's operations. However, the shareholders may direct the directors to take, or refrain from taking, specified action due to the Shareholders' reserve power. The directors who sit at the Shareholder group, must take decisions collectively. From May 2016, three directors is the minimum number to hold a directors' meetings.

***Currently it is proposed that the ACL board will share three directors (as per Appendix 5.3, Tim Richens, Derek Quilter, and Martin Shields) with the ADL board. Whilst this will ensure a smooth transition of operations between ADL and ACL this may present a potential conflict of interest for those directors as they are acting in a decision-making capacity for both entities. In addition to this, two of the directors are also Council***

**Officers (Derek Quilter and Martin Shields), which presents a conflict of interest given the services these companies will provide to the Council.**

It should be considered whether additional and independent representation is required on the ACL board.

### **3.2.2 Bath Tourism Plus Limited**

Bath Tourism Limited was originally established in July 2003 as a spin-out of the Council's tourism activities. Bath Tourism Plus Limited is currently a company limited by guarantee. The Council recently re-acquired ownership of the company in April 2017 renaming it to Bath Tourism Plus Limited ("BTP"). As part of the change of ownership, interim arrangements have been agreed between the Council and the original BTP board for a 12-month period during which BTP could sit outside of the proposed governance arrangements. This short-term arrangement will enable the Council to appoint two new board directors and shareholders approval on revised business plans.

BTP generates new local tourism business opportunities, working with other official partners within the district, offering membership scheme to local businesses for marketing promotion. From doing this, they have been able to attract more than 500 local tourism businesses. Since 2005, BTP has been responsible for the management and operation of the Bath Christmas Market. Given to its growing popularity, BTP is putting in place plans to reach a wider international platform.

The objective of BTP are as follows:

- Ø Support the economy of BaNES by marketing and promoting the Bath area, in particular leisure, conference, business and educational visitor destination and supporting members to deliver tourism and conferencing services;
- Ø Providing information to visitors and local residents about the area;
- Ø Securing a more equitable distribution of the benefits of tourism to the residents of the Bath area;
- Ø Support businesses involved in the tourism sector; and
- Ø Promoting the heritage, cultural and knowledge of BaNES.

The following membership of BTP Board is outlined below, as per Appendix 5.4:

- Ian Bell (Chairman)
- Cllr Z
- Frank Collins
- Franco de la Croix-Vaubois
- Victor Da Cunha
- Douglas J Douglas
- Roger Jones (newly appointed)
- Craig Jenkins (newly appointed)

The board composition of BTP as detailed above consists of a chairman and seven non-executive directors. There is a Senior Management Team (SMT), where they manage day-to-day operations:

· CEO	:	David James
· Head of Events	:	Vicky Bunt
· Head of Business Development and Partnerships	:	Leslie Redwood
· Visitor Services Operation Manager	:	Jane Warren
· Head of Marketing and PR	:	Caroline Hook
· Head of Membership and Business Relations	:	Jim Oribine
· Head of Finance	:	Andy Mullett

As per the SMT BTP Interim Governance paper, we understand that there was one Councillor (Cllr Z) sitting on the BTP Board. His dual role as shareholder representative and company director would have presented a potential conflict of interest. However, based on discussions, we understand that Cllr Z will stand down from the BTP Board. Roger Jones and Craig Jenkins have been newly appointed as non-executive directors, which will be announced at the September 2017 meeting

***We have also identified a cross board conflict of interest, where Cllr X who sits on the Shareholder Group for BTP, also sits on the ADL board of directors.*** This presents a conflict of interest in potential over-representation of Council Members in the operational management of the companies and the challenges this may present in fulfilling the shareholder representative role effectively.

### **3.2.3 Audit West Limited (proposed)**

Audit West Limited is proposed to be established as an independent partnership between BaNES and North Somerset Council ("NSC") to deliver a shared internal audit service, which could be offered to other local authorities.

We understand that the Council is looking into possible options for the ownership arrangements of Audit West. Combined ownership of Audit West with NSC will provide financial savings and, more importantly, ensure that the outsourcing of services remain within the Council's remit. However, the Council will need to consider any proposed revenue growth of Audit West and any implication that may have on maintaining Teckal compliance, especially if external revenue is expected to exceed 20%.

It is proposed that Audit West will have two appointed officers who will sit on the board as company directors. Tim Richens will represent BaNES and Malcolm Coe will represent North Somerset Council.

***Potential conflict of interests may arise for example, if the internal audit services from Audit West are been offered to ADL or ACL, given Tim Richens' position in both companies. This may impact the independence of any services provided.***

### **3.2.4 Brunel Pension Partnership**

We understand for Brunel Pension Partnership, BaNES has an equal shareholding with 10 other local authority fund members, therefore BaNES will not be able to influence or change the governance structure in that company. As discussions on the establishment of this company are still ongoing we have not performed any additional work on this entity.

### 3.2.5 Adoption West

We understand the Council will also have a 17% interest within another company, Adoption West. As discussions on the establishment of this company are still ongoing we have not performed any additional work on this entity.

### 3.2.6 Conclusion

From our review of the existing arrangements of the Council's LATCos we have identified potential conflicts of interest including:

- a. Duality of Council Members as shareholder representatives and company directors. On the ADL board there are two councillors, one who is a chairman and another is a non-executive director. Duality of roles creates a potential conflict of interest as it presents a challenge to discharging the responsibilities of each role fully. We have identified a similar conflict in the BTP board however we understand that the Council has taken steps to mitigate the associated risks as it is expected that the councillor on this board along will step down after the appointment of two new directors.
- b. Over-representation of directors across company boards: there are plans to incorporate three directors from the ADL board onto the ACL board. We have also identified that the Adoption West and ADL/ACL boards will share a common director. These instances may create a potential conflict of interest whereby for those directors as they are acting in a decision-making capacity for both entities.

### 3.2.7 Recommendation

- a. For BaNES to avoid conflicts of interests from arising, careful consideration should be given to the company board compositions. We recommend that duality of roles between shareholder representative and company director should be avoided to ensure an effective and robust corporate governance structure.
- b. We also recommend that the Council reviews the composition of the holding company and individual trading company boards to ensure that there is sufficient independence and representation in decision-making and avoidance of over-reliance on particular directors.
- c. ***There is no easy solution to these perceived and actual conflicts of interests within the LATCo environment.*** We understand that the Chartered Institute of Public Finance and Accountancy (CIPFA) are soon to issue a paper highlighting lessons learned from the establishment and operation of LATCos to date and suggested mitigations moving forward.

## 4. Accounting implications for proposed group structure

### 4.1 Summary

In this section, we have considered the accounting implications for the proposed group structure, including consideration of consolidation, group accounting and impact on single entity accounts.

### 4.2 Recognition

For those companies where the Council will be the sole and/or significant equity shareholder then consideration will need to be made for consolidation of those companies as subsidiaries. *Paragraph 9.1.2.26 of the Local Authority Code of Practice* ("the Code") sets out the considerations in determining whether an entity meets the definition of a subsidiary. As per the Code, the following conditions must be present:

- a. **Control** – Entities that the authority controls if and only if it has all three of the following:
  - i. power over the entity;
  - ii. exposure, or rights, to variable returns from its involvement with entity; and
  - iii. the ability to use its power over the entity to affect the amount of the authority's returns.
- b. **Nature of Council involvement** – The nature of the involvement and the returns is not restricted in the Code.

### 4.3 Accounting treatment

As per paragraph 9.1.26 of the Code, where it is deemed that an entity is a subsidiary the following accounting treatment should be applied:

- Ø A subsidiary is consolidated by adding like items of assets, liabilities, reserves, income and expenses together line by line to those of other group members in the financial statements.
- Ø Intragroup balances and transactions are eliminated in full.
- Ø 100% of all other balances and transactions are consolidated, even if the authority's controlling interest is less than 100% – minority interests are recognised as an unusable reserve in the Group Balance Sheet.

### 4.4 Single entity accounts

Within the Council's single-entity accounts, the investment in each of the LATCOs will need to be reflected in the Statement of Financial Position.

#### **4.5 Materiality**

We are aware of other local authorities whereby, although the conditions outlined above have been satisfied for the recognition and consolidation of a subsidiary entity, they have chosen not to consolidate on the grounds of materiality. In such cases local authorities have successfully argued that the entity in question is not materially significant to the group.

However, this assessment would need to be made on a company by company basis and will need to take into account the projected funding, revenue and capital streams for each of the companies. We would expect ADL and ACL to be material for consolidation purposes. The Council should seek further advice from its external auditors.

## 5. Appendices

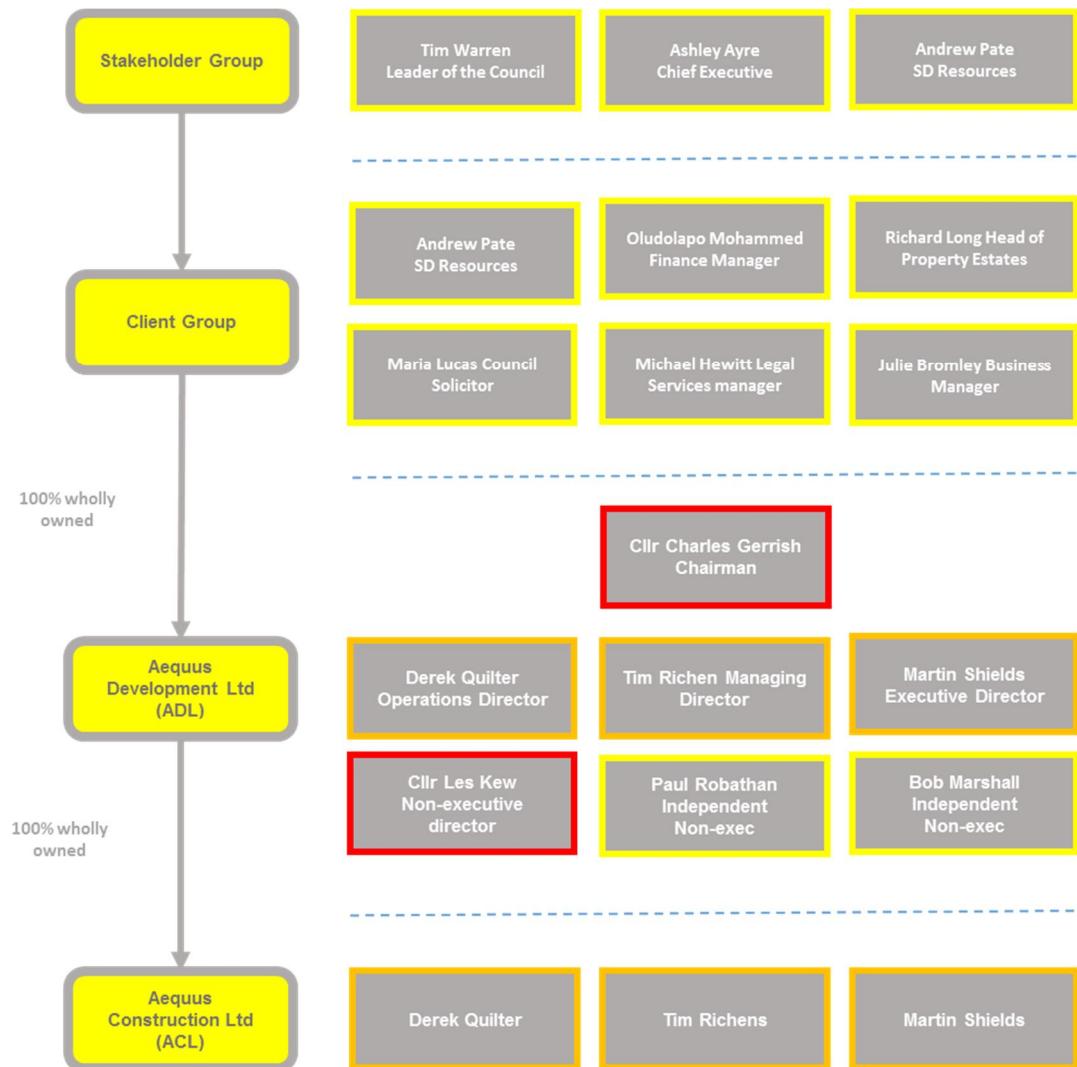
### 5.1 Key documentation provided by the Council:

No.	Title of the document	Author
1	Governance of Interests in Local Authority Companies	BANES
2	Aequus Developments Limited – Articles of association	Trowers & Hamlin
3	Aequus Developments Ltd Business Plan 2016/17 – 20/21	BANES
4	Aequus Developments Ltd – Property Development – Structure Proposal	Monahans
5	Aequus Construction Limited – Articles of association	Trowers & Hamlin
6	Report on the establishment of Aequus Construction Limited	Trowers & Hamlin
7	ACL and ADL – Establishment of a Local Property and Development Company	Cabinet
8	BANES and ACL and ADL – Umbrella Development Agreement	Trowers & Hamlin
9	Member's Agreement in respect of Bath Tourism Plus Limited	Trowers & Hamlin
10	BTP Articles of Association – Company Limited by Guarantee	Trowers & Hamlin
11	BTP company governance arrangements	BANES
12	BTP Cabinet & Portfolios - 24.07.17	BANES
13	BTP SMT Interim Governance	BANES
14	One West Company Structure Chart	BANES

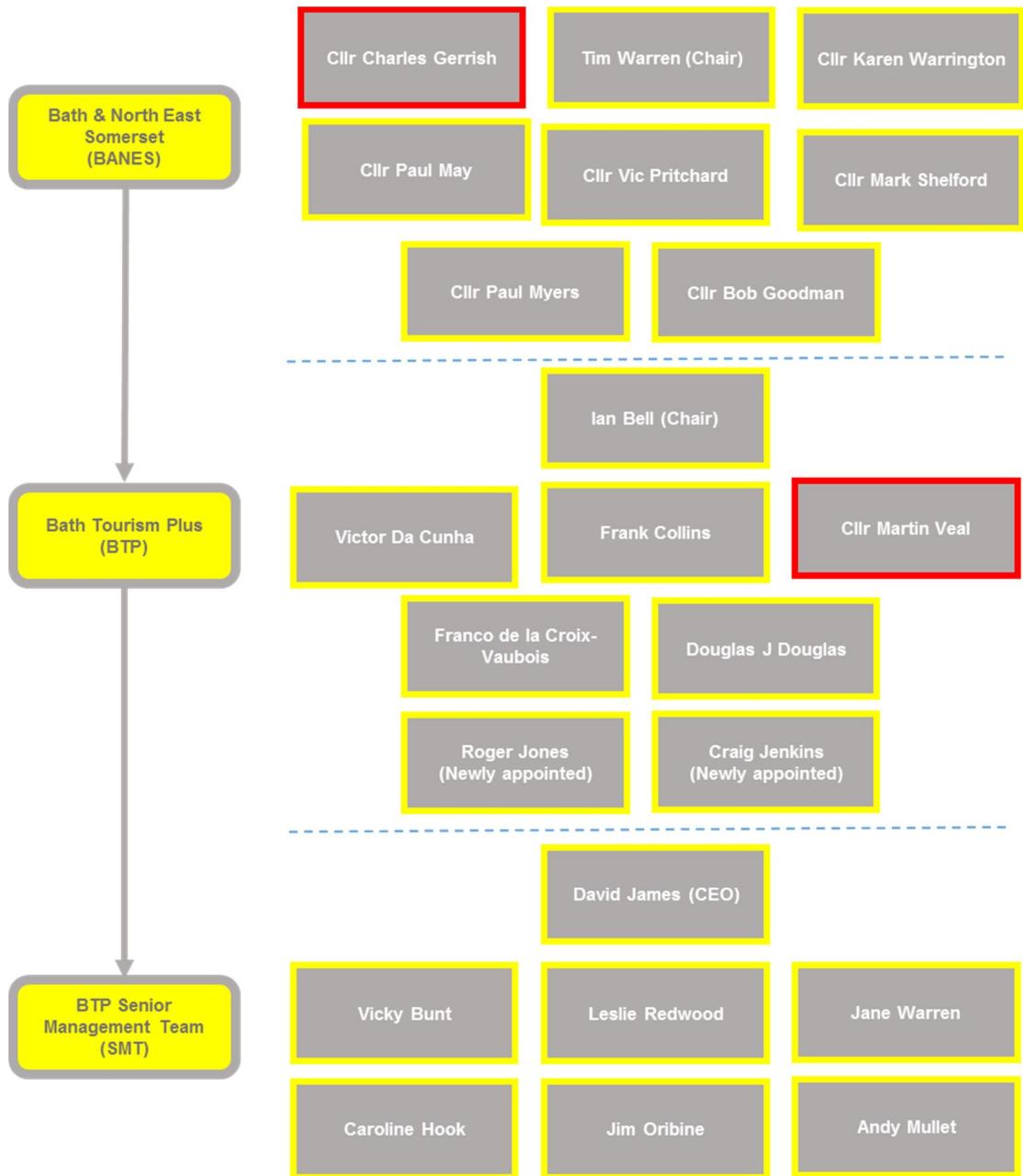
### 5.2 Interviews with key personnel:

No.	Key personnel	Date
1	Managing Director (ADL/ACL)	21 <sup>st</sup> June 2017
2	Head of Finance	22 <sup>nd</sup> June 2017
3	Update call with Head of Legal and Legal Services Manager	8 <sup>th</sup> August 2017

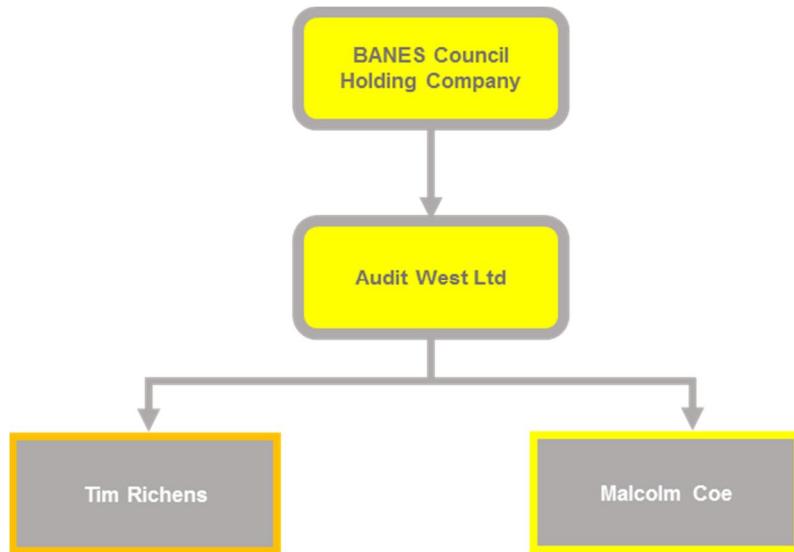
### 5.3 ADL and ACL Board Structure:



#### 5.4 BTP Board Structure:



## 5.5 Audit West Ltd Board Structure:



## 5.6 Further reading:

No.	Title of the document	Author
1	<a href="#">International Framework: Good Governance in the Public Sector</a>	CIPFA & IFAC
2	<a href="#">Delivering good governance in Local Government Framework 2016 Edition (Agenda Item 7 Appendix A)</a>	CIPFA
3	<a href="#">Alternative service delivery models transforming organisations in local government</a>	CIPFA

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## Appendix B

### **BATH & NORTH EAST SOMERSET COUNCIL**

### **PROTOCOL FOR GOVERNANCE ARRANGEMENTS OF LOCAL AUTHORITY COMPANIES**

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## **1. Introduction**

- 1.1 The Council may charge for discretionary services and may also trade for profit. If it decides to trade it is required to undertake this through a company. In deciding whether and how to exercise the trading power, the Council must have regard to its own procedures; Wednesbury principles of reasonableness; proper purposes and fiduciary duty. A business case and risk analysis for all commercial entities will be required in all cases and this Protocol adhered to.
- 1.2 The purpose of this Protocol is to provide a reference point to Members and Officers to understand the requirements of the Council in setting up a local authority company, and in particular a local authority trading company (LATCo), and how the governance of that company will work once set up.
- 1.3 This Protocol sets out how the Council will normally go about managing the relationship between the Council and the LATCo to ensure that a company will go on to deliver the objectives established for it by the Council. It also briefly explains and makes reference to the law and basic requirements placed upon a local authority in establishing or owning companies.
- 1.4 The Protocol is set out as:
  - an explanatory background;
  - a set of guiding principles; and then
  - a set of working expectations.
- 1.5 The attached appendices A-C are the key documents used in this process.

## **2. Background**

### **(a) Local authority trading and the local authority trading company <sup>1</sup>**

- 2.1 There are long-established powers allowing councils to trade. Among the most important is the Local Authorities (Goods and Services) Act 1970, which authorises councils to enter into agreements with other local authorities and other designated public bodies. These agreements are not limited to cost recovery. While the 1970 Act is the basis of trading within the public sector and there is substantial experience of its operation, the Act is limited in scope. For example, it does not allow trading with the private sector or the public at large. Other established trading powers are specific in nature, eg the Local Government (Miscellaneous Provisions) Act 1976, which enables councils to enter into agreements with anyone for the use of spare computer capacity.
- 2.2 The Local Government Act 2003 added new possibilities to charge for services, to both provide extra services at cost and to trade with the private sector. Under the 2003 Act, the Government authorised trading by means of a trading order. The Trading Order currently in force was made in 2009<sup>2</sup>, which

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<sup>1</sup> Source: Local Government Association Briefing

<sup>2</sup> *The Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009*

permits all councils in England to trade or "to do for a commercial purpose", anything which they are authorised to do for the purpose of carrying on their ordinary functions, which includes use of the general power of competence set out in the Localism Act 2011.

- 2.3 Under the 2003 Act and Trading Order, as augmented by the 2011 Act, if a local authority wishes to exercise the power to do things for a commercial purpose (which the authority couldn't otherwise do), then it must be done through a company. Councils are thus enabled to establish a company by which they can trade with the private sector for a profit, ie to enter into commercial contracts. The profits may then go back to the council through dividends or service charges.
- 2.4 The reason given for this legislative requirement is that:  
*"local authorities and their trading arms have to be on a level playing field with the private and commercial sector in both a positive and negative way. They should not be at a disadvantage, but they should not have an outstanding advantage. Taxation is a particular issue. It is right to carry forward the requirement that such bodies should be companies and trading as such."*
- 2.5 To exercise the power to establish a company and trade, a local authority must first approve a business case ('a comprehensive statement') covering:
  - a. the objectives of the business;
  - b. the investment and other resources required to achieve those objectives;
  - c. any risks the business might face and how significant these risks are; and
  - d. the expected financial results of the business, together with any other relevant outcomes that the business is expected to achieve.
- 2.6 The original business case is then implemented and refreshed by way of an annual business plan, which must be submitted for approval, to guide the company in carrying out its continuing activities.
- 2.7 The local authority must also recover the costs of any accommodation; goods; services; staff and anything else they supply to the company under any agreement or arrangement. This is an absolute requirement and distinct from the various rules on procurement or providing state aid.
- 2.8 Other important legal, commercial and financial considerations for setting up a trading company include company law issues; the cost of bidding for contracts; tax liability (corporation tax and VAT); procurement law and state aid rules and employment law (TUPE and pensions).

#### **(b) The Local Authority Company**

- 2.9 The kind of company the Council can set up to trade in this way is defined in

Part V of the Local Government and Housing Act 1989 ('LGHA 89'). This lists:

- a. a company limited by shares;
  - b. a company limited by guarantee and not having a share capital;
  - c. a company limited by guarantee and having a share capital;
  - d. an unlimited company;
  - e. a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965.
- 2.10 The LGHA 89, and the current Order<sup>3</sup> made under it, places local authority companies into one of three categories:
- a. being controlled or
  - b. influenced by the local authority (a regulated company) or
  - c. a company in which the local authority has a minority interest.

It then goes on to set out a number of additional restrictions and requirements to which the local authority and the companies must adhere.

- 2.11 A regulated local authority company and any subsidiary of it, for example, is required to state on all correspondence that it is "**a local authority controlled company**" or "**a local authority influenced company**" (as the case may be) and name the relevant authority or authorities and is subject to rules concerning access by the Council's auditors and for delivery of information to the authority and its members.

### **(c) Other Local Authority Entities**

- 2.12 If a Local Authority does not want to trade, it is free to involve itself in any one of a number of different forms of sole and joint ventures to best assist it in achieving its goals and aims, which may or may not involve establishing an entity that has a separate legal personality. These may also be as above, companies as defined by the Companies Act and which can include an industrial or provident society or a community interest company. They may alternatively be established as a distinct trust, with the council or appointees as trustee. They may be embodied as limited liability partnerships. They may also exist simply as unincorporated partnerships, with other public bodies or private persons (that can often act as if they were a distinct entity), such as the Local Enterprise Partnership.
- 2.13 Whilst this Protocol will apply to all companies in which the Council has an interest, it may not be as appropriate for the governance of the Council's relationship with other entities which it is connected to, is a member of or has an interest in. In these instances, regard will be had to this Protocol and its principles but its application will be determined on a case by case basis.

## **3. Guidance**

- 3.1 In exercising the power to establish a local authority trading company

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<sup>3</sup> *The Local Authorities (Companies) Order 1995*

(LATCo), local authorities were obliged under the 2003 Act to have regard to statutory guidance -The “General Power for Local Authorities to Trade in Function Related Activities Through a Company”.<sup>4</sup>

- 3.2 The Statutory Guidance is now out of date and was withdrawn from 17<sup>th</sup> June 2014. Whilst new guidance is awaited, the withdrawn guidance nevertheless remains useful and largely very relevant. Where it is still relevant, this Protocol has had regard to it.
- 3.3 All listed companies are subject to the *UK Corporate Governance Code*<sup>5</sup>. The Council will expect all of its companies and their subsidiaries, and indeed any company with which it is associated, to adopt the “comply or explain” approach of the UK Corporate Governance Protocols as a demonstration of best practice in corporate governance.
- 3.4 The *Corporate Governance Guidance and Principles for Unlisted Companies in the UK*<sup>6</sup> and also the *Corporate Governance Handbook*<sup>7</sup> have additionally been utilised in the compiling of this Protocol.

#### **4. Principles of Governance of Council Companies**

- 4.1 In setting out the governance relationship between the Council and its companies, group of companies and organisations it has invested in, this Protocol has three key underpinning principles.

##### **I. Appropriate Controls and Freedoms**

- 4.2 It is recognised that, whilst appreciating this should not be unfettered, a trading company needs to be given commercial freedoms to enable it to succeed.
- 4.3 Accordingly, governance arrangements will seek to ensure that:
  - the company will be provided with sufficient freedoms to achieve its objectives; and
  - the Council will retain sufficient controls to ensure that its investment is protected; that appropriate social and financial returns on investment can be obtained and that the trading activities of the companies are conducted in accordance with the values of the Council.

##### **II. Appropriate Relationships, Integrity and Accountability**

- 4.4 It is recognised that, whilst appreciating its procedures operate in a way that

<sup>4</sup> First published: 29 July 2004: UK Govt Archive

<sup>5</sup> September 2014: Financial Reporting Council

<sup>6</sup> First edition: November 2010: Institute of Directors (IoD) and European Confederation of Directors' Associations (ecoDa)

<sup>7</sup> Third edition 2013: Institute of Chartered Secretaries and Administrators (ICSA)

protects the company's commercial interests, those procedures should ensure that the Council can carry out its functions as an investor, as a trustee of public funds and a local authority committed to due responsibility for the exercise of its functions.

- 4.5 Accordingly, governance arrangements will seek to ensure that:
- the executive can make investment decisions based upon complete and accurate consideration of business cases and business plans;
  - the executive can evaluate social and financial benefits and returns on investment; and
  - the Council's PDSP committees are able to exercise their powers in relation to the executive's decision making

in a manner that ensures the companies can provide full and frank financial and business reporting against their business plans and be open to an appropriate level of scrutiny without fear of commercial confidentiality being breached.

### **III. Understanding of roles of the Council and the commercial entity**

- 4.6 It is recognised that, as company ventures have a separate legal personality to the local authority, the success and good governance of the company venture depends upon those involved understanding their role and responsibilities collectively and individually.
- 4.7 Accordingly, governance arrangements will seek to ensure that there is sufficient induction, training and other materials in place so that:
- a. their legal duties;
  - b. stewardship of assets;
  - c. the provisions of the governing documents;
  - d. the external environment; and
  - e. the total structure of the organizations and the venture

are appropriately understood by councillors in their role as part of the executive or of Policy Development & Scrutiny Panels (PDSP); by officers of the Council associated with these duties and by the directors of the companies.

### **5. Ownership and control of the company**

- 5.1 Bath & North East Somerset Council (BaNES), the local authority as a corporate body, will be a member of the company. The membership will be as guarantor if a company limited by guarantee or, if a LATCo, the holder of shares (perhaps the only share) in a company limited by shares.
- 5.2 The rights and duties as a member of the company will, however, almost

always fall to be exercised as an executive responsibility. The proposed structure for BaNES means that decisions to be taken as a shareholder fall to be decided by the Leader. In the normal way, therefore, these functions may be delegated by the Cabinet to an Executive member or an officer and will be subject to key decision and access to information rules, call-in and review by PDSP committee.

- 5.3 For ease of use, where decisions are to be taken by the local authority as a shareholder, those decisions are referred to in this Protocol as being taken by 'the executive'.
- 5.4 The authority of the shareholder is exercised where decisions of the company are reserved for approval of the executive before they can be implemented, but also directly in the form of a shareholder's written resolution or at the general meetings of the company.
- 5.5 At the company general meetings, the executive will be present and voting as a member of the company, where this presence and voting will be in the form of a single person, known as the 'shareholder representative'.
- 5.6 Decisions to be made by the executive, rather than left to the company itself, are known as 'reserved matters'. Reserved matters cover such things as the approval of the company's annual business plan or mid-year amendments to it; the appointment of directors; certain key financing decisions etc. These are established either through agreement with the company, known as a Shareholders Agreement, or as set out in the company's governing Articles of Association.
- 5.7 The relationship between the local authority and the companies it is a member of, is governed by the following key documents that are required to establish a local authority company, and in particular a trading company. In establishing the local authority's company and then in governing the relationship with what is now a separate legal personality, the executive will need to put in place the following documents:
  - a. The **business case** which assesses the risk involved in the proposed trading enterprise and decides whether or not it should be established and proceed to trade. It starts the process of business planning.
  - b. The **articles of association**, or the memorandum and articles of association as it used to be called, which is the constitution of the company. This is the legal document required to set up a limited company and give details of its name, aims and authorised share capital, conduct of meetings, appointment of directors and registered office.
  - c. The **shareholders agreement**, or management agreement, which sets out the rights of the Council as the sole or co-shareholder and how it can exercise those rights. It details the powers of the board of the company and how and when the shareholder might influence those powers. It is important to note that the shareholder agreement is capable of being developed and added to as the company develops.

- d. The **financial agreements** which are the commercial agreements that set out what assistance is to be provided and on what terms. This may be purely financial, such as a direct loan or a facility such as a parental guarantee, and made on commercial terms. It may also be in the form of goods, services or staff to be provided and set out in a resourcing agreement or a service level agreement, which is likely to be on a service charge or cost recovery basis. The agreements may require regular and detailed access to information and financial reporting to the Council and/or holding company.
- e. The **business plan** which sets out the objectives of the business, how they are to be achieved and standards met adjusted in the light of experience and changing circumstances. It is a comprehensive analysis of the business situation at a particular point in time. It is often referred to as the annual business plan because it is expected to be submitted for shareholder approval annually.
- 5.8 A model shareholder agreement for use with the holding company, setting out the principal decisions reserved for the executive's approval, including subsidiaries of the company as a group, is outlined at Appendix 2.
- 6. Shareholder Group**
- 6.1 The structure described above creates a governance process whereby, so far as appropriate under this Code's Principles, the company is left to get on with its business. Following the UK Corporate Governance Code, the companies will utilise a unified board, with appropriate non-executive directors providing outside expert help and with board committees (such as an audit committee) to provide oversight and ensure delivery.
- 6.2 The Cabinet, in turn, will seek to inform the executive decisions and holding the company to account utilising a reflection of the company board structure in the form of a Shareholder Group, including external expertise and sub-groups. The role of this group is to provide the necessary oversight from a shareholder's perspective that the parameters, policies and boundaries that the executive as the shareholder has established for the company are being adhered to. In it, the Cabinet (or its appointee) remains the decision maker but the Group act as advisors in the making of those executive decisions.
- 6.3 Such a Shareholder Group is considered to be an effective means of governance of the companies. This is because it allows for decision making and discussion in an informed atmosphere, which also provides the executive with:
- a mechanism to communicate the shareholders' views to the company; and
  - a means to evaluate the effectiveness of the company board and the delivery of the company performance against strategic objectives.
- 6.4 It is intended that the Cabinet (or its appointee) will make most decisions concerning the executive's role in respect of company interests at meetings of

the Shareholder Group. It is envisaged that key decisions concerning the companies will, however, still normally be made at meetings of the Cabinet, eg the setting up of new companies.

- 6.5 The Terms of Reference for the Shareholder Group are set out at Appendix 1.

7. **Scrutiny**

- 7.1 The PDS Panels have a role to play to ensure that the company is able, and the executive has properly required the company, to make sufficient returns for the investment to be worthwhile and, indeed, ensure that the social objects set for it are not lost in the drive towards the overriding and essential requirement for the company to be economically successful.
- 7.2 It is the executive, which is responsible for approving the business case to establish a company, of setting the right balance between the economic, social and environmental objects of a company when it is established and of subsequently exercising the Council's powers as shareholder.
- 7.3 Once established, the company must then get on with the business of delivering the objectives with which it has been tasked, within the parameters set for it. It must be otherwise free, however, to operate in its own best interests and to compete on an even basis with its competitors in the marketplace. It is the executive, either generally or when considering reserved matters, to whom the company must answer and by whom it is held to account for its success, or failure, in achieving the objectives set for it.
- 7.4 The key role of PDSP is then to advise the executive and hold it to account on behalf of the wider public interest and its role within the Council.
- 7.5 This creates a flow of information and accountability, in which
- the company needs to get on with the business of delivery;
  - the executive needs to make the company decisions reserved to it and to hold the company to account for performing against them; and
  - Members as part of PDSP need to advise on or scrutinise the decisions of the executive.
- This needs to be done in a trading environment that requires them all to make speedy and reactive commercial decisions and to handle often highly valuable and commercially sensitive information.
- 7.6 PDSP, to fulfil its role, requires a means of access to the sensitive information and debate that inform the Shareholder Group and the Mayor's decision making, without either oppressing that process or endangering its own strictly non-executive role.
- 7.7 To this end, the legal framework for local authority companies includes an express requirement concerning the provision of information to Members of

the Council, which reflects the similar provision in relation to local authorities generally. This states that a local authority regulated company “*shall provide to a Member of the Council such information about the affairs of the company as the member reasonably requires for the proper discharge of his duties.*”<sup>8</sup>

- 7.8 The exception here is that the company cannot be required to provide information in breach of any enactment, or of an obligation owed to any person.
- 7.9 It is also worth noting that, where a Member or an officer has become a member or director of a local authority company, the local authority must make arrangements for them to be open to questioning about the company’s activities by Members of the Council at a meeting of the authority, or a committee or sub-committee, or by cabinet members in the course of proceedings of the cabinet or a committee of the cabinet. Importantly, the Member or officer is not required to disclose confidential information about the company.

## **8. Investment and Finance**

- 8.1 The balance of how each company venture may be financed will be assessed and set out in the business case, required at the very beginning of the venture and the incorporation of the company as described above, and in business plans as made or amended and agreed by the executive. Each decision will take into account state aid implications and such matters as where legislative and regulatory requirements demand full cost recovery or standard commercial terms to be applied.
- 8.2 Where the purpose of a company is to better utilise assets owned by the Council, for example, the principal investment in the company is likely to be those assets. The assets may then be made use of by the company through their being transferred in their entirety from the Council to the company or by being provided to the company by the Council under a lease, loan or use agreement.
- 8.3 Investment at the initial stage of a trading company will normally be by way of purchase of share capital, either directly in the company or, more likely, via the BANES holding company, often together with a loan or loan facility on commercial terms. This is to fund those costs which arise at the start of the company or company joint venture, including the holding company and its subsidiaries, to cover initial set up costs, working capital costs and collateral costs. For purchased company interests, share value should reflect the fair value of the going concern.
- 8.4 Direct investment may well also be by various other forms of agreement. This may be for the supply of monies, directly as a loan or under a parental guarantee, credit agreement, facility and so forth, which should be on

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<sup>8</sup> Article 7, Local Authorities (Companies) Order 1995

standard commercial terms. It may also be for the supply of goods, property or staff, as described above and at section 12 below.

## **9. Companies Structure**

- 9.1 The principal means by which the local authority will normally own and hold interests in its trading and other forms of company will be through a single holding company. Wherever practically feasible and advantageous to the authority, each of the individual company ventures will then be a subsidiary of the single holding company and they will operate together as part of the BaNES Holding Limited's group of companies.
- 9.2 The primary objective of a group structure is that the holding company is able to provide a single forum for strategic decision-making across the group. Its board of directors will set the overall strategy in relation to the activities of its subsidiaries.
- 9.3 In doing so, the board of BaNES holding company will also sign off all business plans and hold its subsidiaries to account. The executive, supported by the Shareholder Group, will approve any decisions that would have an effect on the shareholder's rights and hold the group of companies to account as a whole.
- 9.4 The subsidiary companies will, therefore, be expected to adopt a common 'group' approach. This will involve the group companies using existing Council policies and strategies where appropriate. In particular, the Council will require the holding company and its subsidiaries, wherever practicable, to adopt a common approach across the group on branding and its finance, ethics and procurement policies and practices. For example, the Council will require the holding company to approve the procurement and authorisation of spend levels set by each company for its directors and staff.
- 9.5 More detailed matters will also be set as a common approach for itself and its subsidiaries by the holding company, where it considers that that will increase effectiveness, efficiency and engender common understanding. This is likely to include such things as group financial procedure rules, fraud and whistleblowing policies; decision making levels and procedures; capability and disciplinary procedures; health and safety practices and so forth.
- 9.6 The holding company similarly provides a natural home and conduit for support and control roles that will be common across the group, such as company secretarial services, procurement, finance and human resources. These fall into two groups: the first is those services that would be better employed directly by the holding company, such as financial and payroll systems for example. The other are those provided as managed services to the companies by the Council, under a resourcing agreement (or service level agreement), because this is more cost effective, appropriate or is a demand of the shareholder, such as HR or company secretarial and legal services. (This is described further at section 12 below).

- 9.7 The secondary objective of the group structure is financial, in that group companies can share VAT registration where appropriate and can be treated as holding group accounts. The latter means that reporting is as one set of accounts and that profit and loss can be distributed across the group, setting one off against another, as might be desired to meet the aims and values set for the group.
- 9.8 The executive will approve the appointment of auditors for the group and its accounts will appear as part of the Council's financial statements.

## **10. The Company's Board**

- 10.1 The Government Guidance advised that a local authority company will be run by its board of directors answerable to the shareholders, in accordance with the articles of association, and goes on to suggest that a board of between 3 and 8 directors is most likely to be practical (although this will be dependent on the circumstances of each company). The participating Local Authority should be represented on the board of its company.
- 10.2 The representatives who are appointed directors by the executive will participate directly in the activities of the company and are answerable to the company and have the powers and duties of company directors whilst they do so. Accordingly, the Government Guidance goes on to suggest that this requirement in a trading company and the accompanying conflict of interests that may arise means that officers are better placed to fulfil this role.
- 10.3 As the holding company for the group, the BaNES Holding Limited's board of directors will be formed of:
  - The Chief Executive and Strategic Directors and
  - other directors, including non-executive, as appropriate.
- 10.4 The Chair of the board of directors will have a deciding say to be exercised through means of a 'golden vote' procedure on the board. This approach is to ensure that the Council's officers will always be able to out-vote any directly appointed directors on the holding company. Such matters as the quorum requirement for board meetings of the company and the like will reflect that objective.
- 10.5 BaNES Holding Limited will have two standing committees, which will be as follows:
  - The Audit Committee, which will fulfil the same role and function as the Council's Audit Committee, the outputs of which will feed into the holding company board, the company business plans and the Council's own statement of accounts and Annual Governance Statement.
  - The Remuneration Committee, which will conduct appointments and remuneration decisions and recommendations to the Council (where an

appointment is not wholly reserved to the Council).

- 10.6 In respect of the individual wholly owned trading companies, non-trading (Teckal) companies and joint ventures, the appointment of directors of the company will be as are considered best to meet the requirements of the subsidiary or venture concerned.
- 10.7 Where an officer is placed on a company board, they will be provided with an indemnity for their actions in that role. This is provided for under the Local Authorities (Indemnities for Members and Officers) Order 2004. It should be noted, however, that any such indemnity only covers actions taken honestly and in good faith.

## **11. Conflicts of interest**

- 11.1 The Government Guidance states that "*Local authority members and officers should be aware of potential conflicts of interest when carrying out their roles for their authorities, or when acting as directors of trading companies.*"
- 11.2 There will always arise a point where, in matters of reporting, contractual discussion, investment requests or resourcing agreements, there is potential for the same person to be a decision maker or advisor both for the Council and the company.
- 11.3 This is a reflection of the position of each company as a separate legal entity and that the directors of each company are subject to. As the Corporate Governance Guidance and Principles puts it:

*'An important principle of Company Law is that directors have a duty to promote the success of the company as a whole. They are specifically prohibited from directing the activities of the company in favour of themselves or particular shareholders and/or stakeholders'.*
- 11.4 Appendix 3 sets out a briefing for directors' duties.
- 11.5 An essential element of this in terms of this Protocol is that, whilst changes to the Companies Act and current articles of association allow for appropriate provisions dealing with conflicts of interest and the ability of company directors to authorise them, an officer of the Council or a Councillor can never waive their duty to act in the public interest in exercising their responsibility for functions of the Authority. This will, on occasion therefore, create an inescapable conflict of interest between someone's role as a Member or, more likely, as an officer of the Council and as a director of a company, of which those involved need to be aware.
- 11.6 There are also natural points where it is expected that the Council and one of its trading companies will take a different approach. In this respect, the Government Guidance states that:

*"The local authority should consider appointing a 'contract officer' and/or*

*'contract member' with primary responsibility for liaison between the company and the authority, and for access to information about it. It might wish to place limitations on these individuals to ensure that they are fully accountable to the authority as a whole and to ensure that the Section 151 Officer/Monitoring Officer countersigns major decisions about the company's operations."*

- 11.7 This is the role of the Shareholder Group. In support of that function, the Council will appoint a lead authority and client-side officer to lead on managing contractual arrangements with the companies and in holding of the companies to account.
- 11.8 Officers placed into any of these roles may find themselves in a position where they are, or are negatively seen to be, acting against the interest of their own authority and also challenging the Council as their employers or senior managers to whom they might normally answer to. As a result of such activities, their performance in the company or actions they feel are required of them by the company, some of those officers may even find themselves in a position where it is no longer felt tenable that they can be appointed by the authority as a director of a company. The Council as an employer wholly recognises these unusual positions in which officers may find themselves. The Council therefore undertakes that no officer will suffer any ill affect to their employment or career with the authority for fulfilling these activities to the best of their ability or in undertaking these actions asked of them.

## **12. Managed Services, Support Arrangements and Employees**

- 12.1 The authority is required under the 2009 regulations to recover the costs of any accommodation, goods, services, staff or any other thing it supplies to a company in pursuance of any agreement, or arrangement in place. It cannot subsidise the operation of the company in this way.
- 12.2 The Government Guidance in addition clarifies that

*"Because the power to trade is subject to a restriction requiring it to be exercised through a company, it follows that the authority has the requisite power to enter into arrangements with a company in order for the trading power ... to be exercised. It is not necessary therefore, for the company to be expressly designated as a public body under the Local Authorities (Goods and Services) Act 1970, in order for the authority to be able to provide it with staff, goods etc, for the purpose of exercising the power to trade."*
- 12.3 This means that the authority may enter into an agreement with the companies to provide services at cost or as a surplus service charge and that staff time and resources utilized for company purposes should be carefully accounted for. Where this is done at cost, which shall be the norm, it is helpfully stated in the Guidance that the approach should be in accordance with the CIPFA definition of 'whole cost'.

- 12.4 Referred to above as the ‘managed services’, those areas of the authority’s resources so utilized might include project management, initial set-up staff, human resources, audit, business continuity, communications, procurement, legal or finance etc. It is for the company and the executive to agree what is the appropriate level of authority led resource that is appropriate, should or can be delivered to the company in each case. The parameters of those services can be agreed through a Resourcing Agreement or what is known as a Service Level Agreement (SLA).
- 12.5 The authority as shareholder, however, does need to be assured that there are effective and robust support services in place in certain areas. This is to satisfy itself that sufficient standards of operational governance, legal and company secretarial compliance and effective financial management within the company are adhered to. The authority will reserve to itself the ability under the Shareholder Agreement to insist on supplying these services to a controlled company, at cost, if it feels that these standards are not otherwise being met or are not in its opinion likely to be met.
- 12.6 In particular, the Company Secretary role should have a consistent approach across all of the companies or group of companies. This is to ensure consistent interpretation of the compliance standards across the companies and of the governance relationship between the companies and between the companies and the Council. In addition, it ensures that appropriate and proper intelligence is shared across the companies and the authority. In relation to all authority controlled companies and their subsidiaries, therefore, the position of company secretary as an officer (not a director) of each company in the group is to be fulfilled by the Council’s Deputy Monitoring Officer, being the equivalent corporate governance, assurance and general counsel position for the Council. All company secretarial and general counsel duties for the companies will then be carried out through that office, either directly or through the position of an assistant company secretary, with the exception of where a conflict of interest is identified and is acknowledged by that officer.
- 12.7 In relation to company staffing, it is expected that staff of the local authority trading companies will be directly recruited and employed by the companies themselves, with the exception of those support staff supplied by or seconded from the authority as described above. Where the business case includes that staff are transferred, however, this will be subject to full reporting and then consultation and requirements under TUPE legislation and guidance.

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*Adopted in accordance with the Council decision of*

*2017.*

**BATH & NORTH EAST SOMERSET COUNCIL**  
**SHAREHOLDER GROUP - TERMS OF REFERENCE**

**Overview**

The purpose of the Shareholder Group is to advise the Shareholder in the exercise of their responsibility for the Council's functions as corporate shareholder of a company or group of companies and in their role to represent the interests of the Council as Shareholder Representative at meetings of a company.

**Decision making**

The Cabinet may make decisions concerning companies in which the Council is or is proposed to become a shareholder in Cabinet.

**Membership and Arrangements**

The Shareholder Group shall consist of the Leader in the presence of:

- (a) at least two members of the Cabinet and
- (b) any co-opted advisors, who will be independent persons providing relevant expertise and appointed on merit

The Service Director for Finance (s151 Officer) and the Head of Legal and Democratic Services (Monitoring Officer), or their deputies, will be advisors to the Group to provide open and strong advice.

**Restrictions on Membership**

As the Shareholder Group and the Shareholder discharges executive functions in relation to company matters, only Cabinet members can be members of the Shareholder Group with voting rights, although non-Cabinet members and co-opted advisors can be invited to attend, without voting rights.

**Meetings**

The Shareholder Group shall meet on a basis agreed by itself and normally in private.

The quorum shall be the Leader (or other Cabinet member appointed by the Leader for this purpose) in the presence of a minimum of two other Cabinet Members.

An invitation to attend must also have been provided to the section 151 officer and the monitoring officer (or their nominated deputies), which will normally be at least three clear days in advance of the meeting taking place.

The Leader will chair the Shareholder Group and a Vice Chair will be selected from the elected members of the Shareholder Group.

## **Sub Groups**

To assist it in its functions the Shareholder Group:

1. may establish and consult standing sub-groups, such as might be required in respect of:
  - (a) Audit and Risk;
  - (b) Ethical practices; or
  - (c) Nominations and Remuneration
2. may establish and consult ad-hoc or task and finish sub-groups in respect of any matter; and
3. may establish and consult stakeholder groups on any particular aspect or the generality of the objects of the trading companies

A sub-group or stakeholder group may contain such co-opted members, advisors or observers as the Shareholder Group sees fit.

## **Functions**

1. Monitor the performance of a company in relation to its Business Plan and, in particular, the company's performance:
  - (a) in financial matters
  - (b) against the objectives of the company as set out in the company's Objects, Business Case or Business Plan; and
  - (c) against the values of the Council.
2. Evaluate and monitor:
  - (a) the financial and other returns on investment (be that shareholding, loans or direct investment); and
  - (b) risks and opportunities

including those arising from joint ventures or new opportunities.
3. Consider matters reserved to the Council for shareholder approval, such as:
  - (a) Varying Articles of Association
  - (b) Varying ownership and structure
  - (c) Variations to shares (number of; rights; etc.)
  - (d) Entering contracts that:
    - (i) have a material effect on BaNES Council business (including other companies within the group)
    - (ii) are outside of the business plan or do not relate to the business

- (iii) are significant in relation to the size of the business, the business plan, etc.
- (e) Material legal proceedings outside of ordinary business
  - (f) Adopting and amending business plans each year and strategic plans (3 years)
  - (g) Appointment, removal and the remuneration of directors (members of the company board)
  - (h) Selection of the chair of the board
  - (i) Appointment of auditors
  - (j) Issue of dividends and
- as more particularly set out in a company's Articles of Association or Shareholder Agreement.

## **Relationship**

The Shareholder Group as it considers appropriate in accordance with its functions described above, may:

1. report and make formal recommendations to the Cabinet;
2. make reports to and consult PDSP (including full Council) or
3. make reports to and consult the Audit Committee, in relation to that Committee's particular functions.

OUTLINE OF THE  
**SHAREHOLDER AND COMPANY AGREEMENT**

1. DEFINITIONS AND INTERPRETATION
2. FINANCING THE COMPANY
3. DIVIDEND POLICY
4. SUBSIDIARIES
5. MANAGEMENT OF THE COMPANY
6. SHAREHOLDER GROUP
7. THE BUSINESS PLAN AND COMPLIANCE WITH THE BUSINESS PLAN
8. REPORTING AND ACCOUNTING MATTERS
9. BANKING ARRANGEMENTS
10. TERMINATION
11. UNLAWFUL FETTER ON THE COMPANY'S POWERS
12. ASSIGNMENT AND SUB-CONTRACTING
13. FURTHER ASSURANCE
14. REMEDIES AND WAIVERS
15. ENTIRE AGREEMENT
16. VARIATION
17. CONFLICT WITH THE ARTICLES
18. SEVERANCE
19. CONFIDENTIALITY
20. NOTICES
21. NO PARTNERSHIP OR AGENCY
22. COUNTERPARTS
23. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999
24. GOVERNING LAW AND JURISDICTION

## **APPENDIX 3**

### **Guidance Note to B& NES Council Officers when acting as Directors of Council Companies**

#### **INTRODUCTION**

- 1.1 This note contains guidance for BaNES Council Officers who are appointed as company directors to the boards of companies either owned by BaNES Council ("the Council") or in which the Council has an interest. As further companies are established, this note will need to be reviewed and checked to ensure it applies to all companies, roles and appointments.
- 1.2 When this note refers to "directors" it means company directors, not directors in the sense of senior officers of the Council.
- 1.3 This note covers the following areas:
  - (a) Statutory duties of company directors under the Companies Act 2006;
  - (b) Other statutory duties;
  - (c) Duties of directors if the company is facing insolvency;
  - (d) Company secretary issues;
  - (e) Conflicts and
  - (f) Liabilities, insurance and indemnities

#### **RESPONSIBILITIES OF COMPANY DIRECTORS AND COMPANY OFFICERS**

- 1.4 Directors are subject to a large number of duties and obligations as set out in the articles of association of the company, statute, common law and at equity (based on principles and case law decided by the courts over time). In the context of the Council companies, these duties (and the potential liabilities imposed on directors of companies) fall into the following three broad categories:

#### **A. GENERAL DUTIES UNDER THE COMPANIES ACT 2006**

- 1.5 These duties are contained in sections 171-177 of the Companies Act 2006 and are:
  - (a) to act within the powers of the company
  - (b) to promote the success of the company
  - (c) to exercise independent judgment

- (d) to exercise reasonable care, skill and diligence
- (e) to avoid conflicts of interest
- (f) to not accept benefits from third parties
- (g) to declare interest in proposed transactions or arrangements with the company

1.6 The duties can be described more fully as follows:

- 1.6.1 **To act within the powers of the company** – directors must ensure that the company is operating within its objects, its constitution and within its general legal powers
- 1.6.2 **To promote the success of the company** – a director must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole.
- 1.6.3 **To exercise independent judgment** – directors can seek advice but they must exercise their own judgment in deciding whether or not to follow that advice. They can also delegate their powers to others providing this is authorised by the company's constitution.
- 1.6.4 **To exercise reasonable care, skill and diligence** – a director must exercise the general knowledge, care, skill and experience that can reasonably be expected of a person carrying out the functions of that director in the company and the specialist knowledge, skill and experience that the particular director actually has. So there are two parts to this test – an objective and subjective element.
- 1.6.5 **To avoid conflicts of interest** – a director must avoid situations in which he has or could have a direct or indirect interest that conflicts with the company's interests (for example a director should avoid a situation where he sits on the board of two companies who are competing for business unless this situation is known to both parties and authorised). Unless a "situational" conflict is authorised, a director cannot act. This relates to the underlying situation where a director is conflicted not to specific transactions or arrangements which give rise to a "transactional conflict". (this is dealt with further below).
- 1.6.6 **To not accept benefits from third parties** - a director must not accept any benefit from a third party, which is conferred because he is a director or he has done anything or not done anything as a director.
- 1.6.7 **To declare interests in proposed transactions with the company** – a director must declare to the other directors any interest he has in a proposed transaction or arrangement that involves the company before the company enters into the transaction or arrangement. This could be the case, for example, where a director is also a board member of the Council and the company is entering into a transaction with the Council.

- 1.7 Where more than one duty applies in a given case, the directors must comply with each applicable duty. The general duties also do not require or authorise a director to breach any other law.
- 1.8 The general duties apply to all the directors of a company. "Director" is defined in the Companies Act 2006 to include any person occupying the position of director, by whatever name called. The Companies Act makes no distinction between executive and non-executive directors. Whether the general duties will apply to a person who is not formally appointed as a director will depend on his, her or its functions and the way in which he/she acts. Shadow directors are persons in accordance with whose directions or instructions the directors of the company are accustomed to act (s.251 CA 2006). De facto directors are persons acting as directors without being formally appointed. Both shadow directors and de facto directors are subject to the general duties.
- 1.9 Only the company will be able to enforce the general duties, although in certain circumstances individual members may be able to bring a derivative action on the company's behalf.
- 1.10 As a general principle, a director is (and remains) liable for his acts and omissions carried out whilst he was a director and so can be found liable for such acts and omissions even if he is no longer acting as a director.

## B. OTHER DUTIES IMPOSED BY LAW

- 1.11 As well as the general duties under the Companies Act 2006, there is a range of legislation and general law which imposes further duties on directors, including:

**Companies Act 2006** - The Companies Act contains multiple provisions which govern the way in which directors manage the company including proper record keeping, the filing of accounts, maintenance of capital, etc.

**Company Directors' Disqualification Act 1986** - An application can be made to the court to disqualify a person from acting as a director under the Company Directors' Disqualification Act 1986 where (1) the director is found guilty of failing to comply with legislation in relation to the filing of documents three or more times during the preceding five years; (2) the director was a director of a company that has become insolvent and his conduct makes him unfit to be concerned in the management of a company; and (3) the director is found guilty of wrongful or fraudulent trading. If successful, courts can disqualify directors from being concerned or taking part in the promotion, formation or management of a company for up to fifteen years.

**Health and Safety at Work etc. Act 1974** - Directors can be held criminally responsible for a health and safety offence where the company is found guilty of an offence and the offence was committed with the consent or connivance or was attributable to any neglect on the part of the director.

**Corporate Manslaughter and Corporate Homicide Act 2007** - Companies can be prosecuted under the 2007 Act if failings by a company's senior management causes (1) a person's death and (2) a duty of care to that person to be grossly breached. Companies can receive unlimited fines for such prosecutions as well as orders demanding compensation, payment of costs, payment towards victims, orders to publicise the conviction and orders to take steps to remedy the management failure.

**Duty of confidentiality** - as well as legislation, there are also duties contained within common law and equity. Directors have a duty of confidentiality to the company. The duty of confidentiality can be particularly difficult to comply with where directors are sitting on multiple boards.

### C. DIRECTORS' DUTIES IN INSOLVENCY

1.12 Directors' duties are modified where a company is or may become insolvent – in these circumstances, directors must act in the interests of creditors, with a view to minimising losses to them. In particular directors must avoid wrongful or fraudulent trading of the company. These cover, amongst other things:

**Wrongful trading** (section 214, Insolvency Act 1986). This occurs in the following circumstances.

- *A company is in insolvent liquidation and*
- *A Director knew or ought to have concluded that there was no reasonable prospect of avoiding liquidation; and*
- *The Director failed to take every step to minimise loss to creditors*

The "ought to know" standard is assessed both objectively and subjectively. What he *ought to have known* (given his circumstances, knowledge, skills, etc.) and what he *actually knew*. No dishonesty is required - being "honest but incompetent" is no defence. The onus is on the director to prove that he took every reasonable step to minimise the potential losses to creditors. In circumstances of wrongful trading directors can be personally liable to contribute to the company's assets

**Fraudulent trading** (section 213, Insolvency Act 1986 and Section 993, Companies Act 2006). This occurs in the following circumstances:

*The business of a company is carried on with intent to defraud creditors of the company or creditors of any other person, or for any fraudulent purpose.*

The Insolvency Act provision only arises if "*in the course of the winding up of a company it appears [that the business of the company is carried on, etc.]....*". However, the equivalent provision in the Companies Act can be triggered at any time – no insolvency is required. The Insolvency Act carries a civil penalty and a director found liable may be required to contribute to the company's assets. The Companies Act carries additional criminal penalties of a fine as well as a potential jail sentence (maximum sentence of 10 years).

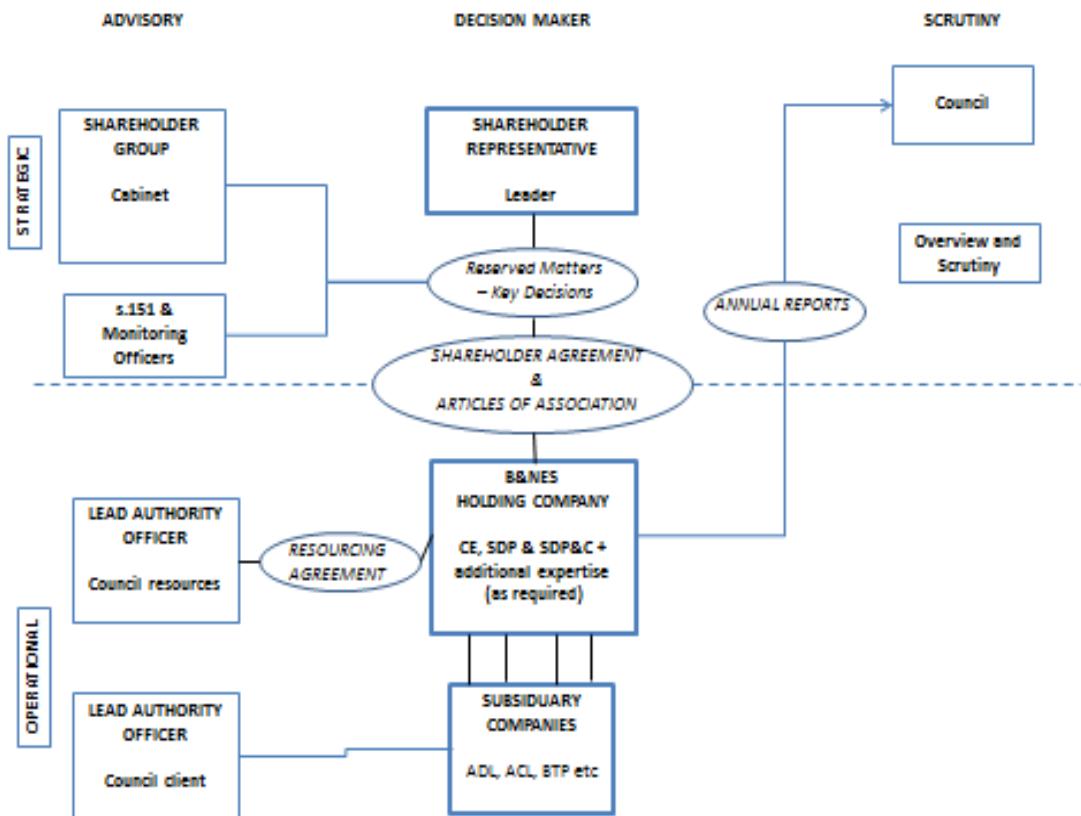
## **Checklist of general policy issues to be considered in forming a company**

<b>Policy issue</b>	<b>Key questions</b>
Control	<ul style="list-style-type: none"><li><input type="checkbox"/> Does the council feel that it must exercise direct control?</li><li><input type="checkbox"/> Will a contract with the new body provide sufficient control?</li><li><input type="checkbox"/> Would it want involvement in the management of the new organisation?</li></ul>
Autonomy	<ul style="list-style-type: none"><li><input type="checkbox"/> Does the council believe that independence will allow a new organisation to be more effective than an in-house service?</li></ul>
Community involvement	<ul style="list-style-type: none"><li><input type="checkbox"/> Does the council believe there are benefits in giving the community some form of ownership in a new organisation?</li><li><input type="checkbox"/> Are the community showing interest in taking over a new organisation?</li></ul>
Employee involvement	<ul style="list-style-type: none"><li><input type="checkbox"/> Does the council believe there are benefits in giving staff some form of ownership in a new organisation?</li><li><input type="checkbox"/> Are staff showing interest in taking over a new organisation?</li></ul>
Financial savings	<ul style="list-style-type: none"><li><input type="checkbox"/> Does the council see a benefit in the new organisation being able to sell its services?</li><li><input type="checkbox"/> Does the council see significant potential for external income generation?</li><li><input type="checkbox"/> Does the council believe the new organisation will explore changing terms and conditions for new staff?</li></ul>
Charitable status	<ul style="list-style-type: none"><li><input type="checkbox"/> Are tax savings being sought, for example business rates?</li><li><input type="checkbox"/> Is it believed that a charity will find it easier to fundraise?</li><li><input type="checkbox"/> Does the council believe the objectives of a charitable body are better aligned with public service values?</li></ul>

- Strategic withdrawal
- Is this service a statutory duty and what does that duty require as a minimum?
  - Does the council believe that it no longer has a role in delivering aspects of this service?
  - Does the council want to cease or run down its spending on this service?

### Checklist of areas to test in option appraisal

1. **Opportunities for innovation:** have other options for the design and integration of the services been properly explored? Or has the service simply been packaged with other services because that's the current structure of the organisation?
2. **Critical mass:** do the new services have the right level of scale to be contracted for and managed by a new spin-out?
3. **The potential for income generation:** how realistic are the estimates; have similar levels been achieved elsewhere; what investment is needed to make it possible; and what resources and skills are needed?
4. **The cost of procurement and contracting:** have the costs been included of preparing for any procurement process and seeing it through to conclusion and finalising the contracts?
5. **Overall project costs:** does the council have the in-house skills and resources needed, and if not, have external costs, including consultancy and legal support, been included?
6. **The potential for staff savings:** has the possibility of a new organisation employing staff on different terms and conditions taken into account TUPE, staff turnover and labour market conditions (and how they may change in the medium to long term)?
7. **Savings in overheads:** has the financial impact on the council's support service costs been properly assessed, including both the potential for savings and the loss of economies of scale for the council?
8. **Set-up costs:** for the spin-out option, have the ongoing revenue costs of new overheads been considered and the support needed to the spin-out to help establish itself and represent its own interests?
9. **Governance costs:** has the cost of managing a contract been taken into account; is the client side proportionate; and has the opportunity been examined for integrating it into other roles or sharing it?
10. **Efficiency assumptions:** have efficiencies factored into the in-house option been examined to see if other models could achieve them (and vice versa)?
11. **Opportunity costs:** have the projections for future savings been costed to take a realistic account of the time required to set up new management models?
12. **Policy constraints:** have the assumptions made about the political acceptability of different options been properly tested with politicians?
13. **Costs of optimism:** have the costs and benefits of each option been properly challenged? Has enthusiasm for one of the models led to bias influencing the assumptions behind the others?
14. **Assessing impact:** are any of the options likely to have a particularly adverse impact on members of the community and can these be mitigated?



## Aequus Developments Ltd Chairman's Statement



It gives me great pleasure to present this Annual Report to shareholders, my first as Chairman. After over twelve months in the role, I have had the opportunity to see the growing portfolio ADL will be managing, alongside the number of sites for development we have been working on for the delivery of units to the area of Bath & North East Somerset.

The company has built a foundation based on access to the finest local expertise in the area and a deep understanding of the knowledge required and a highly professional investment capability.

We have the opportunity to build on this platform to create important, powerful and valuable businesses, to the benefit of our shareholders and most importantly bringing homes back into use for our wider community.

### **Operational progress: The project**

During the year, a total of nine city centre property refurbishments were completed which gave Aequus Developments a sound start, being a mixture of flats, terraced homes and 1 House of Multiple Occupation (HMO) property, with an additional 14 anticipated to be completed by September 2017.

On top of the existing residential homes, ADL is bringing forward a number of sites as set out in the development pipeline. By the year 2020 we anticipate to have delivered a total number of 300 new homes. In doing this we are working with a number of project teams to get each of these sites off the ground. Each design team is made up of professional advisors liaising closely with the Bath & North East Somerset Council's planning department and focusing on early engagement with communities for each site to ensure we are delivering market need.

I would like to mention the achievement of Riverside Keynsham, the first site to successfully receive both ADL Board and Shareholder approval of the development Business Case in March 2017. We have appointed our first contractors to start on site and will be ready to market the development from May 2018.

Report of the Directors and

Financial Statements

for the Period 14 March 2016 to 31 March 2017

for

Aequus Developments Ltd

**Aequus Developments Ltd**

**Company Information**  
**for the Period 14 March 2016 to 31 March 2017**

**DIRECTORS:**

C D Gerrish  
L J Kew  
R H Marshall  
D P E Quilter  
T Richens  
D P Robathan  
M Shields

**REGISTERED OFFICE:**

Guildhall  
High Street  
Bath  
BA1 5AW

**REGISTERED NUMBER:**

10060817 (England and Wales)

**Aequus Developments Ltd (Registered number: 10060817)**

**Report of the Directors**  
**for the Period 14 March 2016 to 31 March 2017**

Our confidence for the future extends beyond our existing portfolio. The quality and number of homes for the future remains important to us and we expect it to lead to exciting opportunities and prospects for further value creation.

**EVENTS SINCE THE END OF THE PERIOD**

Information relating to events since the end of the period is given in the notes to the financial statements.

**DIRECTORS**

The directors who have held office during the period from 14 March 2016 to the date of this report are as follows:

C D Gerrish - appointed 14 March 2016  
L J Kew - appointed 14 March 2016  
R H Marshall - appointed 8 December 2016  
D P E Quilter - appointed 14 March 2016  
T Richens - appointed 14 March 2016  
D P Robathan - appointed 30 March 2016  
M Shields - appointed 27 September 2016  
J M Wilkinson - appointed 14 March 2016 - resigned 27 September 2016

All the directors who are eligible offer themselves for election at the forthcoming first Annual General Meeting.

**FINANCIAL INSTRUMENTS**

Aequus Developments' financial risk management objectives and policies, including exposure to market risk, credit risk and liquidity risk are set out in notes to the accounts.

**STATEMENT OF DIRECTORS' RESPONSIBILITIES**

The directors are responsible for preparing the Report of the Directors and the financial statements in accordance with applicable law and regulations.

Company law requires the directors to prepare financial statements for each financial year. Under that law the directors have elected to prepare the financial statements in accordance with International Financial Reporting Standards as adopted by the European Union. Under company law the directors must not approve the financial statements unless they are satisfied that they give a true and fair view of the state of affairs of the company and of the profit or loss of the company for that period. In preparing these financial statements, the directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and accounting estimates that are reasonable and prudent;
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the company will continue in business.

The directors are responsible for keeping adequate accounting records that are sufficient to show and explain the company's transactions and disclose with reasonable accuracy at any time the financial position of the company and enable them to ensure that the financial statements comply with the Companies Act 2006. They are also responsible for safeguarding the assets of the company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

**STATEMENT AS TO DISCLOSURE OF INFORMATION TO AUDITORS**

So far as the directors are aware, there is no relevant audit information (as defined by Section 418 of the Companies Act 2006) of which the company's auditors are unaware, and each director has taken all the steps that he ought to have taken as a director in order to make himself aware of any relevant audit information and to establish that the company's auditors are aware of that information.

**AUDITORS**

The auditors, Monahans, will be proposed for re-appointment at the forthcoming Annual General Meeting.

**Report of the Independent Auditors to the Members of  
Aequus Developments Ltd**

We have audited the financial statements of Aequus Developments Ltd for the period ended 31 March 2017 on pages seven to twenty five. The financial reporting framework that has been applied in their preparation is applicable law and International Financial Reporting Standards (IFRSs) as adopted by the European Union.

This report is made solely to the company's members, as a body, in accordance with Chapter 3 of Part 16 of the Companies Act 2006. Our audit work has been undertaken so that we might state to the company's members those matters we are required to state to them in a Report of the Auditors and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company and the company's members as a body, for our audit work, for this report, or for the opinions we have formed.

**Respective responsibilities of directors and auditors**

As explained more fully in the Statement of Directors' Responsibilities set out on page three, the directors are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards for Auditors.

**Scope of the audit of the financial statements**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the company's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the directors; and the overall presentation of the financial statements. In addition, we read all the financial and non-financial information in the Report of the Directors to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by us in the course of performing the audit. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

**Opinion on financial statements**

In our opinion the financial statements:

- give a true and fair view of the state of the company's affairs as at 31 March 2017 and of its loss for the period then ended;
- have been properly prepared in accordance with IFRSs as adopted by the European Union; and
- have been prepared in accordance with the requirements of the Companies Act 2006.

**Opinion on other matter prescribed by the Companies Act 2006**

In our opinion, based on the work undertaken in the course of our audit, the information given in the Report of the Directors for the financial year for which the financial statements are prepared is consistent with the financial statements, and has been prepared in accordance with applicable legal requirements. In the light of the knowledge and understanding of the company and its environment, we have not identified any material misstatements in the Report of the Directors.

Aequus Developments Ltd (Registered number: 10060817)

Statement of Profit or Loss and Other Comprehensive Income  
for the Period 14 March 2016 to 31 March 2017

	Notes	£
<b>CONTINUING OPERATIONS</b>		
Revenue	3	82,605
Administrative expenses		(218,974)
<b>OPERATING LOSS</b>		(136,369)
Finance costs	5	(19,446)
<b>LOSS BEFORE INCOME TAX</b>	6	(155,815)
Income tax	7	28,391
<b>LOSS FOR THE PERIOD</b>		(127,424)
<b>OTHER COMPREHENSIVE INCOME</b>		
<b>TOTAL COMPREHENSIVE INCOME FOR THE PERIOD</b>		(127,424)

The notes form part of these financial statements

**Aequus Developments Ltd (Registered number: 10060817)**

**Statement of Changes in Equity**  
**for the Period 14 March 2016 to 31 March 2017**

	Called up share capital £	Retained earnings £	Total equity £
<b>Changes in equity</b>			
Issue of share capital	100	-	100
Total comprehensive income	-	(127,424)	(127,424)
<b>Balance at 31 March 2017</b>	<b>100</b>	<b>(127,424)</b>	<b>(127,324)</b>

The notes form part of these financial statements

**Notes to the Financial Statements**  
**for the Period 14 March 2016 to 31 March 2017**

**1. STATUTORY INFORMATION**

Aequus Developments Ltd is a private company, limited by shares, registered in England and Wales. The company's registered number and registered office address can be found on the Company Information page.

The presentation currency of the financial statements is the Pound Sterling (£).

**2. ACCOUNTING POLICIES**

**Basis of preparation**

The financial statements have been prepared in accordance with International Financial Reporting Standards and IFRIC interpretations and with those parts of the Companies Act 2006 applicable to companies reporting under IFRS. The financial statements have been prepared under the historical cost convention, except for investment property which have been measured at fair value.

The accounting policies set out below have, unless otherwise stated, been applied consistently to all periods presented in these financial statements.

For 2017, based on their assessment of the company's financial position, future performance, liquidity and risks, the directors have a reasonable expectation that the company has adequate resources to continue in operational existence for at least the next twelve months. Thus the company adopts the going concern basis of preparation for the financial statements.

**Revenue recognition**

Under the condition that persuasive evidence of an arrangement exists, revenue is recognised to the extent that it is probable that the economic benefits will flow to the company and the revenue can be reliably measured, regardless of when the payment is being made. In cases where the inflow of economic benefits is not probable due to customer related credit risks the revenue recognised is subject to the amount of payments irrevocably received. Revenue is measured at the fair value of the consideration received or receivable net of discounts and rebates and excluding taxes or duty.

The specific recognition criteria described below must also be met before income is recognised.

**Rental income**

The company is a lessor in operating leases. Rental income arising from operating leases on investment property is accounted for on a straight-line basis over the lease terms and is included within revenue in the income statement due to its operating nature, except for contingent rental income which is recognised when it arises. Initial direct costs incurred in negotiating and arranging an operating lease are recognised as an expense over the term of the lease on the same basis as income.

**Tenant lease incentives**

Tenant lease incentives are recognised as a reduction of rental revenue on a straight term basis over the term of the lease. The lease term is the non cancellable period of the lease together with any further term for which the tenant has the option to continue the lease, where, at the inception of the lease, the directors are reasonably certain that the tenant will exercise that option.

Amounts received from tenants to terminate leases or to compensate for dilapidation are recognised in the income statement when the right to receive them arises.

**Service charges, management charges and other expenses recoverable from tenants**

Income arising from expenses recharged to tenants is recognised in the period in which the compensation becomes receivable. Service and management charges and other such receipts are included in rental income gross of related costs, as the directors consider that the company acts as a principal in this respect.

**Tenant deposits**

Tenant deposit liabilities are initially recognised at fair value and subsequently measured at amortised cost where material. Any difference between the initial fair value and the nominal amount is included as a component of operating lease income and recognised on a straight line basis over the lease term.

**Notes to the Financial Statements - continued**  
**for the Period 14 March 2016 to 31 March 2017**

**2. ACCOUNTING POLICIES - continued**

**Financial instruments**

A financial instrument is any contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity. Financial assets of the company mainly include cash and cash equivalents, available-for-sale financial assets, trade receivables, loans receivable, finance lease receivables and derivative financial instruments with a positive fair value, including receivables from group companies. Cash and cash equivalents are not included within the category available-for-sale financial assets as these financial instruments are not subject to fluctuations in value. Financial liabilities of the company mainly comprise loans from group companies and trade payables including amounts due to group companies. The company does not make use of the option to designate financial assets or financial liabilities at fair value through profit or loss at inception (Fair Value Option). Based on their nature, financial instruments are classified as financial assets and financial liabilities measured at cost or amortised cost and financial assets and financial liabilities measured at fair value.

Financial instruments are recognised on the Statement of Financial Position when the company becomes a party to the contractual obligations of the instrument. Purchases or sales of financial assets, i.e. purchases or sales under a contract whose terms require delivery of the asset within the time frame established generally by regulation or convention in the marketplace concerned, are accounted for at the trade date.

Initially, financial instruments are recognised at their fair value. Transaction costs directly attributable to the acquisition or issue of financial instruments are only recognised in determining the carrying amount, if the financial instruments are not measured at fair value through profit or loss. Subsequently, financial assets and liabilities are measured according to the category to which they are assigned.

**Cash and cash equivalents**

The company considers all highly liquid investments with less than three months maturity from the date of acquisition to be cash equivalents. Cash and cash equivalents are measured at cost.

**Impairment of financial assets**

Financial assets, are assessed for indicators of impairment at the end of each reporting period. Financial assets are considered to be impaired when there is objective evidence that, as a result of one or more events that occurred after the initial recognition of the financial asset, the estimated future cash flows of the investment have been affected.

For all other financial assets, objective evidence of impairment could include:

- significant financial difficulty of the issuer or counterparty; or
- breach of contract, such as a default or delinquency in interest or principal payments; or
- it becoming probable that the borrower will enter bankruptcy or financial re-organisation; or
- the disappearance of an active market for that financial asset because of financial difficulties.

For certain categories of financial asset, such as trade receivables, assets that are assessed not to be impaired individually are, in addition, assessed for impairment on a collective basis. Objective evidence of impairment for a portfolio of receivables could include the company's past experience of collecting payments, an increase in the number of delayed payments in the portfolio past the average credit period of 30 days, as well as observable changes in national or local economic conditions that correlate with default on receivables.

For financial assets carried at amortised cost, the amount of the impairment loss recognised is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted at the financial asset's original effective interest rate.

For financial assets carried at cost, the amount of the impairment loss is measured as the difference between the asset's carrying amount and the present value of the estimated future cash flows discounted at the current market rate of return for a similar financial asset. Such impairment loss will not be reversed in subsequent periods.

**Notes to the Financial Statements - continued**  
**for the Period 14 March 2016 to 31 March 2017**

**2. ACCOUNTING POLICIES - continued**

**Provisions**

A provision is recognised in the Statement of Financial Position when the company has a present legal or constructive obligation as a result of a past event, it is probable that an outflow of economic benefits will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation. If the effect is material, provisions are recognised at present value by discounting the expected future cash flows at a pre-tax rate that reflects current market assessments of the time value of money. When a contract becomes onerous, the present obligation under the contract is recognised as a provision and measured at the lower of the expected cost of fulfilling the contract and the expected cost of terminating the contract as far as they exceed the expected economic benefits of the contract. Additions to provisions and reversals are generally recognised in the Statement of Income. The present value of recognised obligations associated with the retirement of property, plant and equipment (asset retirement obligations) that result from the acquisition, construction, development and normal use of an asset is added to the carrying amount of the related asset. The additional carrying amount is depreciated over the life of the related asset. Additions to and reductions from the present value of asset retirement obligations that result from changes in estimates are generally recognised by adjusting the carrying amount of the related asset and provision. If the asset retirement obligation is settled for other than the carrying amount of the liability, the company recognises a gain or loss on settlement.

**Borrowing costs**

The company pays or receives interest on some of its intercompany loan balances. These are recognised within interest in the Statement of Income when incurred or receivable. All costs directly attributable to the cost of a qualifying asset are capitalised.

**Notes to the Financial Statements - continued**  
**for the Period 14 March 2016 to 31 March 2017**

**2. ACCOUNTING POLICIES - continued**

**New standards and interpretations not yet adopted:**

A number of new standards, amendments to standards and interpretations are not yet effective for the period ended 31 March 2017, and have not been applied in preparing these financial statements. Those standards that have relevance to the company are mentioned below:

**IFRS 9 (2014) - Financial Instruments**

IFRS 9 Financial Instruments issued on 24 July 2014 is the IASB's replacement of IAS 39 Financial Instruments: Recognition and Measurement. The Standard includes requirements for recognition and measurement, impairment, derecognition and general hedge accounting. The IASB completed its project to replace IAS 39 in phases, adding to the standard as it completed each phase.

The version of IFRS 9 issued in 2014 supersedes all previous versions and is mandatorily effective for periods beginning on or after 1 January 2018 with early adoption permitted (subject to local endorsement requirements). For a limited period, previous versions of IFRS 9 may be adopted early if not already done so provided the relevant date of initial application is before 1 February 2015.

**IFRS 15 - Revenue from contracts with customers**

IFRS 15, effective for years beginning after 1 January 2018, replaces all existing revenue requirements in IFRS (IAS 11 Construction Contracts, IAS 18 Revenue, IFRIC 13 Customer Loyalty Programmes, IFRIC 15 Agreements for the Construction of Real Estate, IFRIC 18 Transfers of Assets from Customers and SIC 31 Revenue - Barter Transactions Involving Advertising Services) and applies to all revenue arising from contracts with customers. It also provides a model for the recognition and measurement of disposal of certain non-financial assets including property, equipment and intangible assets. The standard outlines the principles an entity must apply to measure and recognise revenue. The core principle is that an entity will recognise revenue at an amount that reflects the consideration to which the entity expects to be entitled in exchange for transferring goods or services to a customer.

The standard requires entities to exercise judgement, taking into consideration all of the relevant facts and circumstances when applying each step of the model to contracts with their customers. The standard also specifies how to account for the incremental costs of obtaining a contract and the costs directly related to fulfilling a contract.

**IFRS 16 Leases**

IFRS 16 specifies how an IFRS reporter will recognise, measure, present and disclose leases. The standard provides a single lessee accounting model, requiring lessees to recognise assets and liabilities for all leases unless the lease term is 12 months or less or the underlying asset has a low value. Lessors continue to classify leases as operating or finance, with IFRS 16's approach to lessor accounting substantially unchanged from its predecessor, IAS 17. Effective to annual reporting periods beginning on or after 1 January 2019.

**Transfers of Investment Property (Amendments to IAS 40)**

The amendments to IAS 40 Investment Property: Amends paragraph 57 to state that an entity shall transfer a property to, or from, investment property when, and only when, there is evidence of a change in use. A change of use occurs if property meets, or ceases to meet, the definition of investment property. A change in management's intentions for the use of a property by itself does not constitute evidence of a change in use.

The list of examples of evidence in paragraph 57(a) – (d) is now presented as a non-exhaustive list of examples instead of the previous exhaustive list. Effective for annual periods beginning on or after 1 January 2018.

**Notes to the Financial Statements - continued  
for the Period 14 March 2016 to 31 March 2017**

**7. INCOME TAX**

**Analysis of tax income**

	£
Deferred tax	<u>(28,391)</u>
Total tax income in statement of profit or loss and other comprehensive income	<u>(28,391)</u>

The deferred tax income in 2017 relates to the origination and reversal of temporary differences.

For the year ended 31 March 2017 the company was subject to UK corporation tax at a rate of 20%. For future years the company will be subject to corporation tax at 19%.

**8. INVESTMENT PROPERTY**

	Total £
<b>FAIR VALUE</b>	
Additions	<u>1,350,293</u>
At 31 March 2017	<u>1,350,293</u>
<b>NET BOOK VALUE</b>	
At 31 March 2017	<u>1,350,293</u>

**9. TRADE AND OTHER RECEIVABLES**

	£
Current:	
Other debtors	19,370
Prepayments and accrued income	275
	<u>19,645</u>

**10. CASH AND CASH EQUIVALENTS**

	£
Bank accounts	<u>94,468</u>

**11. CALLED UP SHARE CAPITAL**

Allotted, issued and fully paid:			
Number:	Class:	Nominal value:	
100	Ordinary	£1	<u>100</u>

100 Ordinary shares of £1 each were allotted and fully paid for cash at par during the period.

**Notes to the Financial Statements - continued**  
**for the Period 14 March 2016 to 31 March 2017**

**14. FINANCIAL INSTRUMENTS**

This section gives a comprehensive overview of the significance of financial instruments for the company and provides additional information on Statement of Financial Position items that contain financial instruments. The following table presents the carrying amounts of each category of financial assets and liabilities:

	31 March 2017 £
<b>Financial assets</b>	
Loans and receivables	19,645
Cash and cash equivalents	<u>94,468</u>
	114,113
<b>Financial liabilities</b>	
Financial liabilities measured at amortised cost	<u>1,620,121</u>
	1,620,121

The following table presents the fair values and carrying amounts of financial assets and liabilities measured at cost or amortised cost:

	31 March 2017	
	Fair value £	Carrying value £
Financial assets measured at cost or amortised cost		
Cash and cash equivalents	94,468	94,468
Other current financial assets	<u>19,645</u>	<u>19,645</u>
	114,113	114,113
Financial liabilities measured at cost or amortised cost		
Trade payables	13,610	13,610
Other current financial liabilities	251,504	251,504
Non current financial liabilities	<u>1,355,007</u>	<u>1,355,007</u>
	1,620,121	1,620,121

All financial assets and liabilities are measured at amortised cost.

The fair values of cash and cash equivalents, current receivables, other current financial assets, other assets, trade payables and other current financial liabilities and other liabilities approximate their carrying amount largely due to the short-term maturities of these instruments.

There are no financial assets and liabilities measured at fair value.

**Notes to the Financial Statements - continued  
for the Period 14 March 2016 to 31 March 2017**

The following table reflects the calculation of the company's net liquidity:

	31 March 2017
	£
Cash and cash equivalents	94,468
Receivables from group companies	<hr/>
Total liquidity	94,468
Short term debt and current maturities of long term debt	35,228
Amounts due to group companies	179,460
Long term debt	1,355,007
Total debt	1,569,695
Net liquidity	(1,475,227)

**Capital management**

The company defines its capital structure as net debt and equity. The primary objective of the company's capital management is to ensure that it makes optimal use of the working capital generated from its trading profits. The company's management focus is on generating positive cash flow from operations and maintaining a positive relationship of the company's current assets and current liabilities.

**15. DEFERRED TAX**

	£
Losses in the year	(28,391)
Balance at 31 March	(28,391)

Deferred tax assets are measured at the tax rates that are expected to apply in the period when the asset is realised, based on tax rates that have been enacted or substantively enacted at the statement of financial position date.

	Year ended 31 Mar 2017
<b>Assets:</b>	
Property, plant and equipment	28,391
Provisions and tax losses	<hr/>
Deferred tax asset	28,391
<b>Liabilities:</b>	
Property, plant and equipment	-
Provisions and tax losses	<hr/>
Deferred tax liability	-
<b>Total deferred tax assets, net</b>	28,391

Management considers to what extent it is probable that the deferred tax assets will be realised. The ultimate realisation of deferred tax assets is dependent upon the generation of future taxable profits during the periods in which those temporary differences and tax loss carry forwards become deductible.

**Aequus Developments Ltd (Registered number: 10060817)**

**Notes to the Financial Statements - continued**  
**for the Period 14 March 2016 to 31 March 2017**

**19. RECONCILIATION OF LOSS BEFORE INCOME TAX TO CASH GENERATED FROM OPERATIONS**

	£
Loss before income tax	(155,815)
Increase in group trade payables	179,460
Finance costs	19,446
	<hr/>
Increase in trade and other receivables	43,091
Increase in trade and other payables	(19,645)
	<hr/>
<b>Cash generated from operations</b>	<b>50,426</b>
	<hr/>
	<b>73,872</b>
	<hr/>

**20. CASH AND CASH EQUIVALENTS**

The amounts disclosed on the Statement of Cash Flows in respect of cash and cash equivalents are in respect of these Statement of Financial Position amounts:

**Period ended 31 March 2017**

	31.3.17	14.3.16
	£	£
Cash and cash equivalents	94,468	<hr/>
	<hr/>	<hr/>

The company considers all highly liquid investments with less than three months maturity from the date of acquisition to be cash equivalents. Cash and cash equivalents are measured at cost.

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**Report of the Directors and**  
**Financial Statements**

**for the Year Ended 31 March 2017**

**for**

**Bath Tourism Plus**

## **Bath Tourism Plus**

### **Contents of the Financial Statements for the Year Ended 31 March 2017**

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## Bath Tourism Plus

### Company Information for the Year Ended 31 March 2017

#### DIRECTORS:

Ian Bell  
Frank Collins  
Victor Silva Da Cunha  
Franco De La Croix-Vaubois  
Douglas Douglas  
Martin Veal

#### CHIEF EXECUTIVE:

David James

#### SECRETARY:

Andrew Mullett

#### REGISTERED OFFICE:

Abbey Chambers  
Abbey Churchyard  
Bath  
BA1 1LY

#### REGISTERED NUMBER:

04843577 (England and Wales)

#### AUDITORS:

Moore Stephens  
Chartered Accountants and Statutory Auditor  
30 Gay Street  
Bath  
BA1 2PA

## **Bath Tourism Plus**

### **Report of the Directors** **for the Year Ended 31 March 2017**

The directors present their report with the financial statements of the company for the year ended 31 March 2017.

#### **PRINCIPAL ACTIVITY**

The principal activity of the company in the year under review was that of supporting and advancing the economy of Bath and North East Somerset by marketing and co-ordinating the promotion of the district as a leisure, conference, business and educational visitor destination. It does this by:

- assisting in the implementation of the tourism strategy of Bath and North East Somerset Council;
- providing information on the district to visitors and local residents;
- developing local and regional partnerships for purposes of economic development;
- securing a more equitable distribution of the benefits of tourism to the residents of the district;
- promoting and supporting the development of the district's tourism infrastructure;
- undertaking initiatives to improve the quality of the visitor welcome to Bath and North East Somerset;
- supporting businesses involved in the tourism industry;
- promoting the heritage and cultural facilities of Bath and North East Somerset,

The company, which operates under the brand of Visit Bath, carries out these activities through:

- operating the Bath Visitor Information Centre (which welcomes almost 500,000 visitors per year);
- operating a membership scheme, with approximately five hundred business members;
- providing an accommodation booking service for members;
- marketing Bath and the surrounding area to leisure, business and overseas travellers;
- undertaking PR activity to attract the top national and international travel writers;
- developing Bath's official destination websites [www.visitbath.co.uk](http://www.visitbath.co.uk), [www.bathvenuefinder.co.uk](http://www.bathvenuefinder.co.uk) and [www.bathchristmasmarket.co.uk](http://www.bathchristmasmarket.co.uk);
- organising the hugely popular Bath Christmas Market.

Since its formation in 2003 the company has been jointly owned by Bath and North East Somerset Council (B&NES) and Bath Chamber of Commerce. As part of the commissioning process to agree a three-year Destination Management Services contract between B&NES and the company, it was agreed that a more suitable ownership structure is for B&NES to become the sole owner, so in November 2016 it acquired the share held by Bath Chamber of Commerce; the current Chairman and Board continued in place. A new set of Articles was adopted on 5 April 2017, and the company name was amended to Bath Tourism Plus Limited.

#### **REVIEW OF BUSINESS**

The results for the year are shown in the income statement account on page 8 and other comprehensive income and expenditure on page 9.

Core funding received from B&NES amounted to £349,000; the Council also provide the company with premises in Abbey Chambers which have a notional rental value of £236,000, bringing their contribution to £585,000. Income generated from trading activities amounts to just over £2m, fractionally down on the previous year - increased sales income generated online, through the Visitor Information Centre and from the Bath Christmas Market was offset by reductions in accommodation booking income and funding received from local partners towards marketing activities.

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## **Bath Tourism Plus**

### **Report of the Directors for the Year Ended 31 March 2017**

#### **REVIEW OF BUSINESS (continued)**

The increasing amounts of income being generated from the company's trading activities means that the proportion of funding received from B&NES (including the value of the premises) amounts to 22% of company turnover (down from almost 50% of turnover five years ago).

Direct costs of sales have also fallen, while administration costs (which includes £236,000 notional property costs) rose by £207,934. Included within this total is a payment of £150,000 made to Bath Festivals, being an advance payment to underwrite the 2017 Bath International Festival, in accordance with the terms of the funding agreement that commenced on 1 April 2017.

In 2012 the company carried out a total refurbishment of the Visitor Information Centre, at a total cost of £189,198, which was funded by a grant from B&NES of £186,000; both the cost of refurbishments and the amount of grant were being written down over a ten year period commencing on 1 April 2012. However, as the company had made a decision before the end of the year to relocate the VIC, which will occur in September 2017, the asset has been impaired and the balance of these costs (£94,598) has been written off as part of administrative expenses; the related deferred income (£93,000) has been released and is included as other operating income so the net impact of this decision is to include a net cost of £1,598.

The overall result, after including the payment of £150,000 to Bath Festivals, was an operating deficit of £165,874 (2015-16 £31,818 deficit).

Some long-serving staff members are enrolled in the Avon Pension Fund Defined Benefit Scheme - new members of staff are no longer eligible to join this scheme, instead joining the company's Defined Contribution scheme. In accordance with Financial Reporting Standard 102 section 28 Employee Benefits, an increase of £207,000 in the Avon Pension Fund scheme deficit is reflected in the balance sheet (2015-16: £4,000 decrease in deficit)

After providing for investment income, movements in deferred and other taxation and actuarial losses in respect of the pension scheme, a total deficit of £359,353 has been added to accumulated losses (2015-16: total surplus of £48,967).

#### **DIRECTORS**

The directors shown below have held office during the whole of the period from 1 April 2016 to the date of this report.

Ian Bell	Chair
Frank Collins	
Victor Silva Da Cunha	
Franco De La Croix-Vaubois	
Douglas Douglas	
Martin Veal	

Other changes in directors holding office are as follows:

Joanna Harrod Bertinet	Resigned 26 May 2016
Simon Cooper	Resigned 9 September 2016
Jonathan Overton	Resigned 10 May 2016

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## **Bath Tourism Plus**

### **Report of the Directors for the Year Ended 31 March 2017**

#### **FUTURE PLANS**

After a long period of negotiation and restructuring, the company has entered into a contract with B&NES for the provision of Destination Management Services, which commenced on 1 April 2017; the contract is for a three-year period, with a possible two-year extension. As part of the contract, Bath Tourism Plus is taking the lead on the development of a comprehensive five-year Destination Management Plan which should be completed by the end of 2017 and which will provide a framework within which the contract outputs can be delivered. Bath Tourism Plus will also be providing financial support to Bath Festivals Ltd, and from August 2017 have taken over the operation of the Bath Box Office, previously operated by Bath Festivals Ltd.

As part of the contract discussions, the company's property options have been reviewed, and a decision taken to move out of Abbey Chambers, where we have been based for many years. The Visitor Information Centre is moving just around the corner to shop premises in Terrace Walk in the latter part of 2017, and the remaining company departments are moving into new office accommodation, which will be shared with Bath Festivals. These moves will allow for smarter, more integrated working, and will save the company an estimated £100,000 per annum in property costs, although there are large upfront costs associated with the moves which will be borne in 2017-18.

#### **RESERVES POLICY**

At 31 March 2017, the company had accumulated revenue surpluses arising since the commencement of operations amounting to £105,932 (March 2016 £292,205). However, these are offset by the Avon Pension Fund net deficit of £625,120 (gross deficit £772,000 less deferred tax of £146,880) (2016 net deficit £452,000) so the year-end balance sheet shows an overall deficiency of reserves amounting to £519,188 (2016 £159,795 deficit).

As part of the contract negotiation, B&NES has agreed that the Avon Pension Fund deficit will be absorbed by the Council, so the accounts for the year to 31 March 2018 will show the liability as disappearing from the balance sheet, and the company should therefore return to solvency.

#### **1995 LOCAL AUTHORITIES (COMPANIES) ORDER**

The agreement of the Audit Commission was obtained for the appointment of Moore Stephens, 30 Gay Street, Bath, as auditors. This complies with the specifics of the order.

#### **COMPANY INFORMATION**

Chief Executive	David James
Company Secretary	Andrew Mullett
Registered Office	Abbey Chambers, Abbey Church Yard, Bath BA1 1LY
Auditors	Moore Stephens, 30 Gay St, Bath BA1 2PA

## **Bath Tourism Plus**

### **Report of the Directors for the Year Ended 31 March 2017**

#### **STATEMENT OF DIRECTORS' RESPONSIBILITIES**

The directors are responsible for preparing the Report of the Directors and the financial statements in accordance with applicable law and regulations.

Company law requires the directors to prepare financial statements for each financial year. Under that law the directors have elected to prepare the financial statements in accordance with United Kingdom Generally Accepted Accounting Practice (United Kingdom Accounting Standards and applicable law), including Financial Reporting Standard 102 'The Financial Reporting Standard applicable in the UK and Republic of Ireland'. Under company law the directors must not approve the financial statements unless they are satisfied that they give a true and fair view of the state of affairs of the company and of the surplus or deficit of the company for that period. In preparing these financial statements, the directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and accounting estimates that are reasonable and prudent;

The directors are responsible for keeping adequate accounting records that are sufficient to show and explain the company's transactions and disclose with reasonable accuracy at any time the financial position of the company and enable them to ensure that the financial statements comply with the Companies Act 2006. They are also responsible for safeguarding the assets of the company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

#### **STATEMENT AS TO DISCLOSURE OF INFORMATION TO AUDITORS**

So far as the directors are aware, there is no relevant audit information (as defined by Section 418 of the Companies Act 2006) of which the company's auditors are unaware, and each director has taken all the steps that he ought to have taken as a director in order to make himself aware of any relevant audit information and to establish that the company's auditors are aware of that information.

#### **AUDITORS**

The auditors, Moore Stephens, will be proposed for re-appointment at the forthcoming Annual General Meeting.

This report has been prepared in accordance with the provisions of Part 15 of the Companies Act 2006 relating to small companies.

#### **ON BEHALF OF THE BOARD:**

.....  
Andrew Mullett - Secretary

Date: .....

## **Report of the Independent Auditors to the Members of Bath Tourism Plus**

We have audited the financial statements of Bath Tourism Plus for the year ended 31 March 2017 on pages eight to nineteen. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards (United Kingdom Generally Accepted Accounting Practice), including Financial Reporting Standard 102 'The Financial Reporting Standard applicable in the UK and Republic of Ireland'.

This report is made solely to the company's members, as a body, in accordance with Chapter 3 of Part 16 of the Companies Act 2006. Our audit work has been undertaken so that we might state to the company's members those matters we are required to state to them in a Report of the Auditors and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the company and the company's members as a body, for our audit work, for this report, or for the opinions we have formed.

### **Respective responsibilities of directors and auditors**

As explained more fully in the Statement of Directors' Responsibilities set out on page four, the directors are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### **Scope of the audit of the financial statements**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the company's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the directors; and the overall presentation of the financial statements. In addition, we read all the financial and non-financial information in the Report of the Directors to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by us in the course of performing the audit. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

### **Opinion on financial statements**

In our opinion the financial statements:

- give a true and fair view of the state of the company's affairs as at 31 March 2017 and of its deficit for the year then ended;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice, including Financial Reporting Standard 102 'The Financial Reporting Standard applicable in the UK and Republic of Ireland'; and
- have been prepared in accordance with the requirements of the Companies Act 2006.

### **Opinion on other matter prescribed by the Companies Act 2006**

In our opinion, based on the work undertaken in the course of our audit, the information given in the Report of the Directors for the financial year for which the financial statements are prepared is consistent with the financial statements, and has been prepared in accordance with applicable legal requirements. In the light of the knowledge and understanding of the company and its environment, we have not identified any material misstatements in the Report of the Directors.

## **Report of the Independent Auditors to the Members of Bath Tourism Plus**

### **Matters on which we are required to report by exception**

We have nothing to report in respect of the following matters where the Companies Act 2006 requires us to report to you if, in our opinion:

- adequate accounting records have not been kept, or returns adequate for our audit have not been received from branches not visited by us; or
- the financial statements are not in agreement with the accounting records and returns; or
- certain disclosures of directors' remuneration specified by law are not made; or
- we have not received all the information and explanations we require for our audit; or
- the directors were not entitled to prepare the financial statements in accordance with the small companies regime and take advantage of the small companies' exemption from the requirement to prepare a Strategic Report or in preparing the Report of the Directors.

Mark Burnett ACA (Senior Statutory Auditor)  
for and on behalf of Moore Stephens  
Chartered Accountants and Statutory Auditor  
30 Gay Street  
Bath  
BA1 2PA

Date: .....

## Bath Tourism Plus

### Income Statement for the Year Ended 31 March 2017

	Notes	31.3.17 £	31.3.16 £
<b>TURNOVER</b>			
Cost of sales		<u>2,130,728</u>	<u>2,180,685</u>
<b>GROSS SURPLUS</b>		<u>531,013</u>	<u>550,135</u>
Administrative expenses		<u>789,887</u>	<u>581,953</u>
		(258,874)	(31,818)
Other operating income	5	<u>93,000</u>	<u>-</u>
<b>OPERATING DEFICIT</b>	4	(165,874)	(31,818)
Interest receivable and similar income		<u>4,843</u>	<u>5,433</u>
		(161,031)	(26,385)
Other finance costs	13	<u>21,000</u>	<u>20,000</u>
<b>DEFICIT BEFORE TAXATION</b>		(182,031)	(46,385)
Tax on deficit	6	<u>8,938</u>	<u>18,552</u>
<b>DEFICIT FOR THE FINANCIAL YEAR</b>		<u>(173,093)</u>	<u>(27,833)</u>

The notes form part of these financial statements

## Bath Tourism Plus

### Other Comprehensive and Expenditure for the Year Ended 31 March 2017

	Notes	31.3.17 £	31.3.16 £
<b>DEFICIT FOR THE YEAR</b>		(173,093)	(27,833)
<b>OTHER COMPREHENSIVE INCOME/EXPENDITURE</b>			
Actuarial (loss)/gain on pension scheme	13	(230,000)	96,000
Tax relating to other comprehensive income/expenditure	12	<u>43,700</u>	<u>(19,200)</u>
<b>OTHER COMPREHENSIVE INCOME / EXPENDITURE FOR THE YEAR, NET OF TAX</b>		(186,300)	76,800
<b>TOTAL COMPREHENSIVE INCOME / EXPENDITURE FOR THE YEAR</b>		<u>(359,393)</u>	<u>48,967</u>

The notes form part of these financial statements

**Balance Sheet**  
**31 March 2017**

	Notes	31.3.17	31.3.16
		£	£
<b>FIXED ASSETS</b>			
Tangible assets	7	12,862	124,267
<b>CURRENT ASSETS</b>			
Stocks		55,462	81,408
Debtors	8	233,657	210,638
Cash at bank		<u>225,300</u>	<u>472,651</u>
		514,419	764,697
<b>CREDITORS</b>			
Amounts falling due within one year	9	<u>274,469</u>	<u>372,159</u>
<b>NET CURRENT ASSETS</b>		<u>239,950</u>	<u>392,538</u>
<b>TOTAL ASSETS LESS CURRENT LIABILITIES</b>		252,812	516,805
<b>CREDITORS</b>			
Amounts falling due after more than one year	10	-	(111,600)
<b>PENSION LIABILITY</b>	13	<u>(772,000)</u>	<u>(565,000)</u>
<b>NET LIABILITIES</b>		<u>(519,188)</u>	<u>(159,795)</u>
<b>RESERVES</b>			
Income and expenditure account		<u>(519,188)</u>	<u>(159,795)</u>
		<u>(519,188)</u>	<u>(159,795)</u>

The financial statements have been prepared in accordance with the provisions of Part 15 of the Companies Act 2006 relating to small companies.

The financial statements were approved by the Board of Directors on ..... and were signed on its behalf by:

.....  
 Ian Bell - Director

## **Bath Tourism Plus**

### **Notes to the Financial Statements for the Year Ended 31 March 2017**

#### **1. STATUTORY INFORMATION**

Bath Tourism Plus is a private company, limited by guarantee, registered in England and Wales. The company's registered number and registered office address can be found on the Company Information page.

The presentational currency is GBP.

#### **2. ACCOUNTING POLICIES**

##### **Basis of preparing the financial statements**

These financial statements have been prepared in accordance with the provisions of Section 1A "Small Entities" of Financial Reporting Standard 102 "The Financial Reporting Standard applicable in the UK and Republic of Ireland" and the Companies Act 2006. The financial statements have been prepared under the historical cost convention.

##### **Turnover**

Turnover is measured at the fair value of the consideration received or receivable, excluding discounts, rebates, value added tax and other sales taxes.

##### **Tangible fixed assets**

Depreciation is provided at the following annual rates in order to write off each asset over its estimated useful life or, if held under a finance lease, over the lease term, whichever is the shorter.

Improvements to property	- 10% on cost
Fixtures and fittings	- 33% on cost
IT equipment	- 25% on cost
Website development	- 50% on cost

Tangible fixed assets individually costing in excess of £2,000 are capitalised and included at cost.

Website development costs represent the design and content cost associated with the development of destination management system software. They are capitalised only to the extent that they lead to the creation of an enduring asset delivering benefits at least equal to the amount capitalised. They are recorded in the balance sheet in the year in which they are incurred and amortised over their useful economic life which is assessed as being two years.

##### **Stocks**

Stocks are valued at the lower of cost and net realisable value, after making due allowance for obsolete and slow moving items.

##### **Taxation**

Taxation for the year comprises current and deferred tax. Tax is recognised in the Income Statement, except to the extent that it relates to items recognised in other comprehensive income or directly in equity.

Current or deferred taxation assets and liabilities are not discounted.

Current tax is recognised at the amount of tax payable using the tax rates and laws that have been

enacted or substantively enacted by the balance sheet date.

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## **Bath Tourism Plus**

### **Notes to the Financial Statements - continued** **for the Year Ended 31 March 2017**

#### **2. ACCOUNTING POLICIES - continued**

##### **Deferred tax**

Deferred tax is recognised in respect of all timing differences that have originated but not reversed at the balance sheet date.

Timing differences arise from the inclusion of income and expenses in tax assessments in periods different from those in which they are recognised in financial statements. Deferred tax is measured using tax rates and laws that have been enacted or substantively enacted by the year end and that are expected to apply to the reversal of the timing difference.

Unrelieved tax losses and other deferred tax assets are recognised only to the extent that it is probable that they will be recovered against the reversal of deferred tax liabilities or other future taxable profits.

##### **Operating lease agreements**

Rentals applicable to operating leases where substantially all of the benefits and risks of ownership remain with the lessor are charged against income on a straight line basis over the period of the lease.

##### **Pension costs and other post-retirement benefits**

The company participates in a defined benefit pension scheme, the Avon Pension Fund, that provides benefits based on final pensionable pay. The assets of this fund are kept separately from those of the company and are held by independent administrators.

For defined benefit retirement benefit plans, the cost of providing benefits is determined using the Projected Unit Credit Method, with actuarial valuations being carried out at each reporting date. Actuarial gains and losses arising from experience adjustments and changes in assumptions are recognised immediately in other comprehensive income. All costs related to the defined benefit plan are recognised in the income statement within employee benefit costs.

The retirement benefit obligation recognised in the balance sheet represents the present value of the defined benefit obligation as reduced by the fair value of plan assets. Any asset resulting from this calculation is limited to the present value of available refunds and reductions in future contributions to the plan.

The company operates a defined contribution pension scheme for new employees. The assets of the scheme are held separately from those of the company. The annual contributions payable are charged to the profit and loss account.

##### **Hire purchase agreements**

Assets held under hire purchase agreements are capitalised and disclosed under tangible fixed assets at their fair value. The capital element of the future payments is treated as a liability and the interest is charged to the income and expenditure account on a straight line basis.

## Bath Tourism Plus

### Notes to the Financial Statements - continued for the Year Ended 31 March 2017

#### 2. ACCOUNTING POLICIES - continued

##### **Government grants**

Government grants are not recognised until there is reasonable assurance that the company will comply with the conditions attaching to them and that the grants will be received.

Government grants are recognised in the Income and Expenditure Account so as to match with the related costs they are intended to compensate for. Grants related to capital assets are deferred and released to the Income and Expenditure Account over the expected useful life of the asset.

#### 3. EMPLOYEES AND DIRECTORS

The average number of employees during the year was 31 (2016 - 33).

#### 4. OPERATING DEFICIT

The operating deficit is stated after charging:

	31.3.17	31.3.16
	£	£
Depreciation - owned assets	30,267	27,876
Auditors' remuneration	<u>5,600</u>	<u>5,800</u>

#### 5. EXCEPTIONAL ITEMS

	31.3.17	31.3.16
	£	£
Exceptional income: Capital grant released	93,000	-
Exceptional expenditure: impairment of property improvements	(94,598)	-
Exceptional expenditure: payment to Bath Festivals(150,000)	-	-
	<u>(151,598)</u>	<u>-</u>

The above exceptional items include an impairment of £94,598 to property improvements which were being depreciated over 10 years, which was the expected economic life of the assets to which they relate. At the year end, following the decision to relocate the Visitor Information Centre, the balance of improvements to property were written off to the income statement and the associated remaining capital grant of £93,000 which was being recognised over 10 years was also released to the income statement (see note 10).

The remaining £150,000 of the exceptional item cost above relates to a payment made to Bath Festivals during the year as a result of a Memorandum of Understanding signed between the organisations in order for Bath Festivals to deliver on its obligations to hold a number of events in 2017

## Bath Tourism Plus

### Notes to the Financial Statements - continued for the Year Ended 31 March 2017

#### 6. TAXATION

##### **Analysis of the tax credit**

The tax credit on the deficit for the year was as follows:

	31.3.17 £	31.3.16 £
Current tax: UK corporation tax	<u>(1,169)</u>	<u>1,169</u>
Deferred tax (Note 12):		
Deferred tax - accelerated capital allowances	(17,589)	(1,121)
Deferred tax - defined benefit pension schemes	<u>9,820</u>	<u>(18,600)</u>
Total deferred tax	<u>(7,769)</u>	<u>(19,721)</u>
Tax on deficit	<u>(8,938)</u>	<u>(18,552)</u>

UK corporation tax was charged at 20% in 2016.

Tax effects relating to effects of other comprehensive income: Actuarial loss on pension scheme

	31.3.17 £	31.3.16 £
Gross Taxation	(230,000)	96,000
Net	43,700	(19,200)

## Bath Tourism Plus

### Notes to the Financial Statements - continued for the Year Ended 31 March 2017

#### 7. TANGIBLE FIXED ASSETS

	Improvements to property £	Fixtures and fittings £	IT equipment £	Website development £	Totals £
<b>COST</b>					
At 1 April 2016	189,198	58,257	15,640	59,829	322,924
Additions	-	-	13,460	-	13,460
At 31 March 2017	<u>189,198</u>	<u>58,257</u>	<u>29,100</u>	<u>59,829</u>	<u>336,384</u>
<b>DEPRECIATION</b>					
At 1 April 2016	75,680	49,168	13,980	59,829	198,657
Charge for year	18,920	4,544	6,803	-	30,267
Impairments	94,598	-	-	-	94,598
At 31 March 2017	<u>189,198</u>	<u>53,712</u>	<u>20,783</u>	<u>59,829</u>	<u>323,522</u>
<b>NET BOOK VALUE</b>					
At 31 March 2017	-	<u>4,545</u>	<u>8,317</u>	-	<u>12,862</u>
At 31 March 2016	<u>113,518</u>	<u>9,089</u>	<u>1,660</u>	-	<u>124,267</u>

#### 8. DEBTORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	31.3.17	31.3.16
	£	£
Trade debtors	33,360	60,705
Corporation Tax refund	1,169	-
Prepayments and accrued income	51,299	53,574
Operating debtors and prepayments	85,828	114,279
Deferred tax asset	147,829	96,359
	<u>233,657</u>	<u>210,638</u>

#### 9. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	31.3.17	31.3.16
	£	£
Trade creditors	106,882	103,807
Taxation and social security	37,099	74,944
Other creditors	130,488	193,408
	<u>274,469</u>	<u>372,159</u>

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## Bath Tourism Plus

### Notes to the Financial Statements - continued for the Year Ended 31 March 2017

#### 10. CREDITORS: AMOUNTS FALLING DUE AFTER MORE THAN ONE YEAR

	31.3.17	31.3.16
	£	£
Other creditors	<u>-</u>	<u>111,600</u>

Other creditors relate to deferred capital grants which were being recognised in the Income Statement over ten years, which was the expected economic life of the assets to which they relate. At the year end, following the decision to relocate the Visitor Information Centre, the improvements to property were impaired and the above capital grant released to income (see Note 5).

#### 11. LEASING AGREEMENTS

Minimum lease payments under non-cancellable operating leases fall due as follows:

	31.3.17	31.3.16
	£	£
Within one year	1,100	1,100
Between one and five years	<u>1,100</u>	<u>2,200</u>
	<u>2,200</u>	<u>3,300</u>

#### 12. PROVISIONS FOR LIABILITIES

	Deferred tax £	Deferred tax on pension £
Balance at 1 April 2016	16,640	(113,000)
Provided during year	(17,589)	-
Charge to Income Statement during year	-	9,820
Other comprehensive income	<u>-</u>	<u>(43,700)</u>
Balance at 31 March 2017	<u>(949)</u>	<u>(146,880)</u>

## Bath Tourism Plus

### Notes to the Financial Statements - continued for the Year Ended 31 March 2017

#### 13. EMPLOYEE BENEFIT OBLIGATIONS

Bath Tourism Plus participates in the Avon Pension Fund, part of the Local Government Pension Scheme. Since 2008 the company has closed the scheme to new entrants, new staff instead being enrolled in a defined contribution scheme. Up until 31 March 2014 the scheme provides benefits based on members' final pensionable salary, thereafter benefits are based on career average revalued earnings.

The company's defined benefit pension scheme was in deficit by £772,000 at 31 March 2017 (2016 £565,000). A deferred tax asset is recognised separately in the balance sheet of £146,680 (2016: £113,000). The company continues to meet all pension liabilities as they fall due, as determined by the independent actuary.

The latest actuarial valuation of the Avon Pension Fund took place on 31 March 2015.

The amounts recognised in surplus or deficit are as follows:

	31.3.17 £	31.3.16 £
Current service cost asset/liability	37,000	41,000
Past service cost	21,000	20,000
	<u>-</u>	<u>51,000</u>
	<u>58,000</u>	<u>112,000</u>
Actual return on plan assets	<u>260,000</u>	<u>(30,000)</u>

Changes in the present value of the defined benefit obligation are as follows:

	31.3.17 £	31.3.16 £
Opening defined benefit obligation	2,066,000	2,090,000
Current service cost	37,000	41,000
Past service cost	-	51,000
Contributions by scheme participants	7,000	7,000
Interest cost	74,000	70,000
Actuarial losses/(gains)	437,000	(176,000)
Benefits paid	<u>(17,000)</u>	<u>(17,000)</u>
	<u>2,604,000</u>	<u>2,066,000</u>

## Bath Tourism Plus

### Notes to the Financial Statements - continued for the Year Ended 31 March 2017

#### 13. EMPLOYEE BENEFIT OBLIGATIONS - continued

Changes in the fair value of scheme assets are as follows:

	31.3.17 £	31.3.16 £
Opening fair value of scheme assets	1,501,000	1,521,000
Contributions by employer	81,000	20,000
Contributions by scheme participants	7,000	7,000
Expected return	53,000	50,000
Actuarial gains/(losses)	207,000	(80,000)
Benefits paid	(17,000)	(17,000)
	<u>1,832,000</u>	<u>1,501,000</u>

The amounts recognised in other comprehensive income are as follows:

	31.3.17 £	31.3.16 £
Actuarial gains/(losses)	<u>(230,000)</u>	<u>96,000</u>
	<u>(230,000)</u>	<u>96,000</u>

The major categories of scheme assets as a percentage of total scheme assets are as follows:

	31.3.17	31.3.16
Equities	59.00%	59.60%
Bonds	19.60%	21.20%
Property	8.70%	9.80%
Cash	1.60%	4.30%
Other	11.10%	5.10%
	<u>100.00%</u>	<u>100.00%</u>

Principal actuarial assumptions at the balance sheet date (expressed as weighted averages):

	31.3.17	31.3.16
Discount rate	2.65%	3.65%
Future salary increases	3.30%	3.10%
Future pension increases	2.50%	2.30%

## Bath Tourism Plus

### Notes to the Financial Statements - continued for the Year Ended 31 March 2017

#### 14. RELATED PARTIES

The directors are not remunerated for work undertaken in their role as Board members, with exception of the Chair who receives an honorarium of £6,000pa (2015-16 £6,000).

Various directors have their own businesses; the transactions that took place between these businesses and Bath Tourism Plus in the year are detailed below. All transactions were at arms-length, no balances were written off in the year and unless otherwise stated, there were no outstanding balances at the year end.

The following businesses owned by directors were invoiced by the company for membership and advertising as follows, until the date of their retirement from the Board:

Director	Business	Invoiced by BTP		Balance due at year end	
		2017 £	2016 £	2017 £	2016 £
J Bertinet	Bertinet Kitchen	-	695	-	-
J Overton	Sally Lunn's-	-	945	-	-

The following businesses owned by directors supplied services or goods to the company:

Director	Business	Charged to BTP		Balance due at year end	
		2017 £	2016 £	2017 £	2016 £
J Overton	Sally Lunn's	167	442	-	-

Martin Veal is a member of Bath & North East Somerset Council (B&NES). The company has charged B&NES a total of £585,000 plus VAT (2015-16: £568,000 plus VAT) for the promotion of tourism within the area controlled by B&NES. At the year-end amounts due from B&NES were £15,472 (2015-16: £31,128) and amounts due to B&NES were £76,048 (2015-16: £23,713), all of which have now been settled in full

#### 15. COMPANY LIMITED BY GUARANTEE

The company is limited by guarantee, with every member of the company agreeing to contribute such amount as may be required (not exceeding £1) to the company's assets if it should be wound up.

## Bath Tourism Plus

### Detailed Income and Expenditure Account for the Year Ended 31 March 2017

	31.3.17 £	31.3.16 £
<b>Turnover</b>		
Income from trading activities	2,084,361	2,144,220
Contract funding from B&NES	341,380	332,000
Contract funding from B&NES - provision of properties	236,000	236,000
Other contract funds & income	-	18,600
	<u>2,661,741</u>	<u>2,730,820</u>
<b>Cost of sales</b>		
Purchases for resale - adjusted for stock	820,887	867,060
Wages	565,410	573,967
Pensions	37,350	92,000
Marketing & publicity	279,769	277,675
Event costs - Xmas market	326,260	307,266
TIC and retail costs	40,982	42,609
Staff expenses and training	17,830	11,304
Commercial activity costs	42,240	8,804
	<u>2,130,728</u>	<u>2,180,685</u>
<b>GROSS SURPLUS</b>	531,013	550,135
<b>Other income</b>		
Exceptional items	93,000	-
Bank interest receivable	<u>4,843</u>	<u>5,433</u>
	<u>97,843</u>	<u>5,433</u>
	628,856	555,568
<b>Expenditure</b>		
Property costs recharged by B&NES	236,000	236,000
Wages	182,144	215,120
Other employment costs	24,057	25,854
Post and stationery	6,182	5,127
Insurance	8,367	8,264
IT costs	17,532	21,900
General expenses	10,199	11,276
Property costs - cleaning etc	1,633	4,363
Sundry expenses	2,588	3,649
Legal fees	10,748	7,535
Auditors' remuneration	<u>5,600</u>	<u>5,800</u>
Carried forward	511,050	550,888
	628,856	555,568

This page does not form part of the statutory financial statements

Directors' salaries	6,000		6,000
Depreciation of tangible fixed assets			

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Carried forward	511,050	628,856	550,888	555,568
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This page does not form part of the statutory financial statements

## Bath Tourism Plus

### Detailed Income and Expenditure Account for the Year Ended 31 March 2017

	31.3.17	31.3.16
	£	£
Brought forward	511,050	550,888
Improvements to property	18,920	18,920
Fixtures and fittings	4,545	4,545
Depn of IT equipment	1,053	1,052
Depn of website development	6,803	3,359
Exceptional items	<u>244,598</u>	<u>-</u>
	<u>786,969</u>	<u>578,764</u>
	(158,113)	(23,196)
<b>Finance costs</b>		
Bank charges	<u>2,918</u>	<u>3,189</u>
	<u>(161,031)</u>	<u>(26,385)</u>
<b>Other finance income/costs</b>		
Interest on pension scheme liabilities	<u>21,000</u>	<u>20,000</u>
<b>NET DEFICIT</b>	<u>(182,031)</u>	<u>(46,385)</u>

## RESOURCES PDS FORWARD PLAN

This Forward Plan lists all the items coming to the Panel over the next few months.

Inevitably, some of the published information may change; Government guidance recognises that the plan is a best assessment, at the time of publication, of anticipated decision making. The online Forward Plan is updated regularly and can be seen on the Council's website at:

<http://democracy.bathnes.gov.uk/mgPlansHome.aspx?bcr=1>

The Forward Plan demonstrates the Council's commitment to openness and participation in decision making. It assists the Panel in planning their input to policy formulation and development, and in reviewing the work of the Cabinet.

*Should you wish to make representations, please contact the report author or Michaela Gay, Democratic Services (01225 394411). A formal agenda will be issued 5 clear working days before the meeting.*

*Agenda papers can be inspected on the Council's website and at the Guildhall (Bath), Hollies (Midsomer Norton), Civic Centre (Keynsham) and at Bath Central, Keynsham and Midsomer Norton public libraries.*

Ref Date	Decision Maker/s	Title	Report Author Contact	Strategic Director Lead
<b>13TH SEPTEMBER 2017</b>				
13 Sep 2017	Resources PDS			
14 Sep 2017	Council	<b>Council Company Governance Arrangements and Annual Reports</b>	Maria Lucas Tel: 01225 395171	Strategic Director - Resources
<b>22ND NOVEMBER 2017</b>				
→22 Nov 2017	Resources PDS	<b>Commercial Estate Strategy</b>	Richard Long Tel: 01225 477075	Strategic Director - Resources
22 Nov 2017	Resources PDS	<b>Commercial Context for Commercial Estate Strategy</b>	Richard Long Tel: 01225 477075	Strategic Director - Resources
22 Nov 2017	Resources PDS	<b>Budget Monitoring Report (September Quarter Monitoring Figures)</b>	Tim Richens Tel: 01225 477468	Strategic Director - Resources
22 Nov 2017	Resources PDS	<b>Update on demand for Printing, Catering and Cleaning services and future delivery options</b>		Strategic Director - Resources
<b>5TH FEBRUARY 2018</b>				

Ref Date	Decision Maker/s	Title	Report Author Contact	Strategic Director Lead
5 Feb 2018	Resources PDS	Budget meeting	Andrew Pate Tel: 01225 477300	Strategic Director - Resources
5 Feb 2018	Resources PDS	Budget Equalities Impacts	Samantha Jones Tel: 01225 396364	Strategic Director - Resources
<b>21ST MARCH 2018</b>				
21 Mar 2018	Resources PDS	Human Resources and Workforce Planning		Strategic Director - Resources
21 Mar 2018	Resources PDS	Council Support for Apprenticeships		Strategic Director - Resources
21 Mar 2018	Resources PDS	Training for Members and Officers		Strategic Director - Resources
21 Mar 2018	Resources PDS	Budget Monitoring	Andrew Pate Tel: 01225 477300	Strategic Director - Resources
<b>16TH MAY 2018</b>				
16 May 2018	Resources PDS	Council Approach to Equalities	Samantha Jones Tel: 01225 396364	Strategic Director - Resources
<b>11TH JULY 2018</b>				
<b>12TH SEPTEMBER 2018</b>				

Ref Date	Decision Maker/s	Title	Report Author Contact	Strategic Director Lead
<b>28TH NOVEMBER 2018</b>				
28 Nov 2018	Resources PDS	Directorate Plans	Andrew Pate Tel: 01225 477300	Strategic Director - Resources
<b>ITEMS TO BE SCHEDULED</b>				
	Resources PDS	Procurement Strategy and Plans	Richard Howroyd Tel: 01225 477334	Strategic Director - Resources
	Resources PDS	Local Government Funding Changes	Andrew Pate Tel: 01225 477300	Strategic Director - Resources